



Carolyn Bailey papers

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Chapter VII

THE POLICE AND THE ABUSED CHILD

THE basic reason giving the police a rightful role in the protection of children from abuse is the traditional police function of the protection of persons and property. This is a function no other agency is prepared to perform. Within the performance of this function the police have the training and experience; and they are the one agency most capable of giving immediate protection to the children, necessary in cases of abuse. Additionally, the police are the only institution of a protective nature offering twenty-four-hour emergency service. This constant availability places the police in a unique position in relation to the underprotected child. Unless there is developed an agency with the manpower and the period of service availability presently possessed by the police, no restriction of the initial role of the police in abuse cases should occur. The police role is one of primary reaction to an emergency situation. It has as a part of that function the ability to initiate an investigation into the circumstances surrounding a complaint, thereby verifying the need for societal intervention. The police possess the ability for quick response to complaints, and the potential for immediate action is a part of the service law enforcement is prepared to render. ✓

The police mission covers the total area of abuse; first, under the police responsibility in juvenile matters, in relation to the protection of the juvenile; and secondly, under the penal statutes of most jurisdictions, making the abuse of children a criminal act, the enforcement of which is a traditional police concern. Those critics of police involvement in abused-child cases are opposing such intervention from a misunderstood conception of the police role and punitive prevention(1,2). They offer no alternatives other than the removal of the responsibility from the police after police contact and police determination to make a referral. In other words, the critics have failed to remove the police from the field



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C. B. [unclear]
St Paul Police

RECRUIT TRAINING: CHILD ABUSE CASES

I. EXISTENCE AND RECOGNITION:

Most people, including police officers, doctors, and other medical personnel, find it difficult to believe that parents (and other adults) can actually injure and kill their own children, but the existence of this problem has become more widely recognized in the past decade. It is not uncommon to find children with broken bones, fractured skulls, severe burns, and other evidence of deliberate attack. The "battered child" is defined as a child who has suffered ~~serious~~ ^{not stands alone} physical injury in circumstances which indicate it was caused wilfully rather than by accident. In most cases the abuser has been the child's parents or guardians. Doctors throughout the country who are active in the investigation of the battered child believe injuries by parents is a significant cause of death in infants and young children. Many children have been permanently mutilated, such as the well-publicized case here of Sonja Peterson, whose father cut off her hand.

PHOTO'S

It is important that the police ^{professional} officer is alert to the prevalence of such crimes, particularly since it is generally accepted that many of these crimes go undetected, until perhaps the child is found murdered and sometimes not then. This is true because: a) Many of the victims are not old enough to talk.

In general, ^{most} battered children are younger than four years of age, although it frequently may occur at any age. A child may be afraid to tell what happened. We have heard children say, "Whenever I tell someone how I got hurt, my mother (or father) does it again worse." Or sometimes no one bothers to ask the child what happened, and the silent child, who has never learned that parents should not severely injure children, thinks little about it except it hurts. b) Parents who badly beat their children can also be very deceptive. They may be disarmingly cooperative, over-protective and neat. You might hear the expression, "Butter wouldn't melt in the parents' mouths." It is not unusual to receive a report from a doctor, such as from a local pediatrician who wrote, "These parents are capable, intelligent, highly educated people who appear to be genuinely concerned about their child, and if it were not for the indisputable nature and extent of this child's injuries, I could not believe one or both of them caused this." c) We all recognize too that children do accidentally injure themselves and others in many different ways and are often found with bruises, skinned knees, cut fingers, etc. from such accidents. For most injuries, parents can think of reasonable explanations where no suspicion whatsoever might be aroused. d) Child abuse usually takes place in the absence of witnesses who might report or testify. A pre-school child may also have limited contacts outside his home so that an injury might be concealed unless a doctor or police are called for assistance. These reasons not only contribute to the lack of detection of such crimes but to the difficulty in prosecuting these cases.

The policeman on the street is in a distinct and advantageous position to spot child abuse cases, because for various reasons he may see the child, the parents, the home, neighbors, etc. when early evidence is still present - if he knows how to recognize it. ~~The policeman on the street is in a distinct and advantageous position to spot child abuse cases, because, for various reasons, he may see the child, the parents, the home, neighbors, etc., when early evidence is still present, if he knows how to recognize it.~~ If he does not, the case may be totally overlooked. For example, if a Casualty or Death report does not contain suspicious information, it may simply be noted in our Homicide Division.

Some evidence to date shows high degree of recidivism. Left unaided one of most effective agents in child abuse is swift accurate identification.

QUESTION IMPROPERLY

Majority already advised

First we are going to show some slides...

Particular attention should be paid to the possibility of Child Abuse when you see any of the following:

1. A notable time interval between the occurrence of the injury and the time the parents seek necessary medical help. For example, would most parents rush the child to the hospital immediately rather than wait several hours? Don't let this deceive you, however, because many parents, after they have severely beaten their children, are terrified, horror-stricken, panicky, and their first thought is to get medical help for their children.
2. Marked discrepancy existing between the nature of the injury and the alleged cause of the injury as supplied by the parents. A few parents offer no explanation for the injury, but most parents think of an excuse. The child fell, usually out of a chair or down the stairs, or he was hit by another child. If the given cause of the injury seems unusual or does not satisfactorily explain it, check further. An example of this occurred recently when a mother reported that bruises and a fractured arm resulted when her infant rolled off a couch on to the carpet.
3. The parents are obviously anxious, demanding, and discipline-oriented. Battering parents commonly have an unduly strong sense of demand in performance by their children, and as a result they tend to discipline too early. An example of this might be the parent who says his four-month old "got out of hand" or the parent who expects his six-month old to be toilet trained. Battering parents were often beaten themselves by their own parents and are continuing the pattern. *High expectation level - try to child to meet needs*
Symptom - child responds to parents' needs (vs normal). If 20 min. can, so can 4 w!
4. Parents who complain agitatingly of difficulties with their children especially: a) complaints of excessive crying (and inability to cope with this), b) fearfulness of being alone with their child, c) appear anxious when anyone watches them care for their child, especially feeding, d) if they are despaired regarding managing their child, e) it is obvious, as in some cases, that they reject or do not want their child. The battered child is frequently a product of an unwanted pregnancy. d) The parents show a striking lack of empathy. *Isolation*
They don't seem to know or care what their child needs or wants, and they seem to resent it when the concern of others focus's on the child rather than on them. For example, you might even hear a battering parent say, "Why are you asking all these questions about how the baby feels? It's been hard for me too!" Many battering parents appear extremely sensitive to rejection. The parent may even interpret the child's crying as an indication the child does not love them. *Push for solution & disclosure if they have a way of dealing with problems pertaining to chd.*
5. Failure to thrive in infants under one year. You may find the first suspicion of the abused child is that he appears unusually small for his age, is underweight, or shows signs of malnourishment. The parent may say the child eats normally or that he refuses to take any food at all. In either case, it is apparent that the child thrives and gains with just a few days in the hospital or away from his home. Retardation in development may also be an indication.
6. Fractures in children under four years old, especially if the child cannot yet crawl. Children are always falling about yet few sustain serious injury. The ease with which a child can be seized by the arms and legs makes injuries to the bones common since they can be used as "handles" for rough treatment.

don't fall in pattern of "very well behaved" child, thus continue pattern.

Watch for signs of child's behavior (trying to please)

Difficult chn to care for, chn with special needs who may need more care, attention & patience & may evoke less positive feelings by their parents (ex. blind child)

sensory perception

Isolation

Child: Overly fearful
or overly clinging

Such strains may produce epiphyseal separations or cause abnormalities in growth. Fractures of the long bones may result from direct impact, bending, compressing or twisting. (ex. fractures of two infants this yr. directly below the knees)

7. External bruises, particularly bruises on the forehead and cheeks, around the eyes, jawline, and the sides of the scalp. Usually bruises on the jaw and neck were deliberately inflicted and are of a "finger-tip" character, suggesting gripping. Bruising of the cheeks and sides of head often suggest blows or slaps with the open hand or fist. Where the bruises are more localised or a severe injury to the skull or brain, they are consistent with blows against hard objects, such as furniture. The presence of a laceration of the inner upper lip with some tearing is a striking feature which may result from a blow or efforts to silence a child. It is difficult to accurately age bruises because shock varies. Bruises normally fade and disappear in about two weeks but scars may show after weeks or months. For these reasons, it is important to describe completely the injuries in your report, including the coloring, exact location, etc. Photographs are essential before the injury heals.

9. Repetition of injury is probably one of the most significant indications of child abuse. A history of accidents or injuries which is not consistent with the age of the child may be strong evidence in court. Include all information you might obtain which shows this child had similar previous "accidents". Even if this may not have been deliberate injury, the fact that the incident repeated itself causing another injury may indicate neglect in that the parents did not correct the problem.

*ABUSE RARELY, IF EVER,
IS A ONE TIME OCCURRENCE.*

8. Various visible injuries to the skin may be suspicious, including:

- a) diaper rash, uncleanliness, and other evidence of unconcern or unawareness of the infant needs;
- b) cigarette burns, bite marks, grab marks, belt lashes;
- c) abrasions, hematomas, and lacerations unusual for the child's age;
- d) marks on the neck from strangling by hands or rope;
- f) external ears traumatized by pinching, twisting, and pulling;
- g) unusual skin rashes which defy dermatologic diagnosis;
- h) burns, particularly of the soles of the feet, ~~and~~ buttocks, ~~and~~ hands.

obj. 1
↙

I am going to show some slides ~~we~~ which will give some examples of the kinds of cases with which ~~you~~ ^{we} will come in contact. This will give ~~you~~ some orientation to ~~the~~ problem and perhaps help ~~you~~ ~~some~~ in recognizing these injuries. After this, I will briefly explain the battered child laws and the procedures to follow when you receive a call on a child beating or death.

- II. LAWS ON CHILD BATTERING
- Mandatory Reporting
- Immunity from Liability
- Evidence Not Privileged
- Penalty for Violation
- Application of Criminal Laws

Criminal Laws

Particularly demanding of s.w. in that they have the very realistic need to protect the child as well as the family's not treatment process to parents!

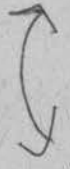
III. COMPILING CHILD ABUSE REPORTS:

Child beating cases involve some of the most serious crimes against the person, crimes which require the uncontaminated admissible ^{+ documented} evidence for successful court presentation. It is important to determine with which crime, if any, you are dealing. (Refer to earlier application of simple assault and aggravated assault complaints). This may be a homicide, since ~~we receive generally at least two child killings a year~~, in which case the investigation should be handled in the same manner as other homicides. It is important to determine where the crime took place, to preserve the crime scene, to protect and photograph the scene and body, and to preserve any other evidence, such as handling clothing in such a manner so that you do not alter wet blood, etc. It is ^{partic} important in crimes against children to determine who was with the child at the time of the crime and/or where both parents were. A spouse will condone and protect the batterer in many cases but may be so shocked on initial contact that he or she may give an accurate account, only to later change his story after he has thought further about it or consulted an attorney. It is therefore important to get written statements from the innocent husband or wife at the scene if they are willing. They may however be completely uncooperative and will often interfere with your questioning of the batterer.

You may speculate but must do better than speculate in court!

IV. THE CHILD ABUSE TEAM

V. Practical Handling of Squad Calls on Child Abuse
(discuss process)



VI. When + How to take children for protective custody.

VII. Rights of Parents + Children.

By Carolin Bailey
St. Paul Police Dept

(over)

Must overcome: preconceived notions
Personal feelings, attitudes
willing to tell them to "shape up"
temptation of accepting parents' deception (ex. 1 time incident)
difficulty in focussing on parent (ex. after seeing abuse, ask parent, "How are you?")

- Child battering =
1. potential within family
 - a. parents' childhood
 - b. frustration w/ children
 - c. interspouse relationships
(can spouse recognize & help?)
 - d. expectation level of child
 2. specific child (who fails to meet needs & more demanding)
 3. crisis (like when washer & drier break down)

Parents reaction to investigation:

1. Denial
justified (in "discipline")
 2. extreme anger
 3. submissiveness (as were when chd.) = depression, suicide.
- most dangerous

Treatment - is relieving pressures on parents
and consequently on child.
"mothering"
battering on wall of isolationism

**The
Abused and Neglected Child
Reporting Act
P.A. 81-1077**

EFFECTIVE JULY 1, 1980

**Illinois Department of
Children and Family Services**

Gregory L. Coler, Director

CFS 1004
10-79 100M

Section 3. As used in this Act unless the context otherwise requires:

"Child" means any person under the age of 18 years.

"Department" means Department of Children and Family Services.

"Local law enforcement agency" means the police of a city, town, village or other incorporated area or the sheriff of an unincorporated area.

"Abused child" means a child whose parent or immediate family member, or any person responsible for the child's welfare, or any individual residing in the same home as the child, or a paramour of the child's parent:

a. inflicts, causes to be inflicted, or allows to be inflicted upon such child by other than accidental means any of the following: a serious physical injury; death; disfigurement; impairment of physical or emotional health; or loss or impairment of any bodily function;

b. creates a substantial risk of physical injury to such child by other than accidental means which would be likely to cause death or serious disfigurement or impairment of any bodily function;

c. commits or allows to be committed a sex offense against such child, as defined in the Criminal Code of 1961;

~~d. commits or allows to be committed an act or acts of torture upon such child; or~~

e. inflicts excessive corporal punishment.

"Neglected child" means any child whose parent or other person responsible for the child's welfare does not provide the proper or necessary support, education as required by law, or medical or other remedial care recognized under State law as necessary for his or her well-being; or who is abandoned by his or her parents or other person responsible for the child's welfare.

"Child Protective Service Unit" means certain specialized State employees of the Department assigned by the Director to perform the duties and responsibilities as provided under Section 7.2 of this Act.

"Person responsible for the child's welfare" means the child's parent; guardian; foster parent; any other person responsible for the child's care at the time of the alleged abuse or neglect; or any other person responsible for the child's welfare in a public or private residential agency or institution.

"Temporary protective custody" means custody within a hospital or other medical facility or a place previously designated for such custody by the Department, subject to review by the Court, including a licensed foster home, group home, or other institution; but such place shall not be a jail or other place for the detention of criminal or juvenile offenders.

"An unfounded report" means any report made under this Act for which it is determined after an investigation that no credible evidence of abuse or neglect exists.

"An indicated report" means a report made under this Act if an investigation determines that some credible evidence of the alleged abuse or neglect exists.

"An undetermined report" means any report made under this Act in which it was not possible to initiate or complete an investigation on the basis of information provided to the Department.

"Subject of report" means any child reported to the central register of child abuse and neglect established under Section 7.7 of this Act and his or her parent, guardian or other person responsible who is also named in the report.

Section 4. Any physician, hospital, hospital administrator and personnel engaged in examination, care and treatment of persons,

every reasonable effort to notify the person responsible for the child's welfare and shall immediately notify the Department. The Department shall promptly initiate proceedings under the Juvenile Court Act for the continued temporary custody of the child.

Where the physician keeping a child in his custody does so in his capacity as a member of the staff of a hospital or similar institution, he shall notify the person in charge of the institution or his designated agent, who shall then become responsible for the further care of such child in the hospital or similar institution under the direction of the Department.

Any person authorized and acting in good faith in the removal of a child under this Section shall have immunity from any liability, civil or criminal that might otherwise be incurred or imposed as a result of such removal.

Section 6. Any person required to investigate cases of suspected child abuse or neglect may take or cause to be taken, at Department expense, color photographs and x-rays of the area of trauma on the child who is the subject of a report. The person seeking to take such photographs or x-rays shall make every reasonable effort to notify the person responsible for the child's welfare.

Section 7. All reports of known or suspected child abuse or neglect made under this Act shall be made immediately by telephone to the central register established under Section 7.7 on the single, State-wide, toll-free telephone number established in Section 7.6, or in person or by telephone through the nearest Department office. Reports made to the central register through the State-wide, toll-free telephone number shall be immediately transmitted to the appropriate Child Protective Service Unit. All reports by persons mandated to report under this Act shall be confirmed in writing to the appropriate Child

Protective Service Unit, which may be on forms supplied by the Department, within 48 hours of any initial report. The Child Protective Service Unit shall send to the central register copies of all written confirmation reports it receives from all reporting sources within 24 hours of receipt, in a manner and form prescribed by the Department.

Written confirmation reports from persons not required to report by this Act may be made to the appropriate Child Protective Service Unit. Written reports from persons required by this Act to report shall be admissible in evidence in any judicial proceeding relating to child abuse or neglect. Reports involving known or suspected child abuse or neglect in public or private residential agencies or institutions shall be made and received in the same manner as all other reports made under this Act.

New para; stronger title
Section 7.1. To the fullest extent feasible, the Department shall cooperate with and shall seek the cooperation and involvement of all appropriate public and private agencies, including health, education, social service and law enforcement agencies, courts of competent jurisdiction, and agencies, organizations, or programs providing or concerned with human services related to the prevention, identification or treatment of child abuse or neglect.

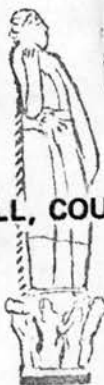
Such cooperation and involvement shall include joint consultation and services, joint planning, joint case management, joint public education and information services, joint utilization of facilities, joint staff development and other training, and the creation of multidisciplinary case diagnostic, case handling, case management, and policy planning teams.

Section 7.2. The Department shall establish a Child Protective Service Unit within each geographic region as designated by the Director

WILLIAM B. RANDALL, COUNTY ATTORNEY

RAMSEY COUNTY, STATE OF MINNESOTA

1100 Commerce Building, 4th & Wabasha, St. Paul, Minnesota 55101 • 612-298-4421



MEMO ON THE NEW DETENTION LAW, CHAPTER 318, PASSED BY
THE 1976 LEGISLATURE

TO: RAMSEY COUNTY POLICE OFFICERS:

The 1976 detention law does not change Minnesota Statutes 260.165, which lists the circumstances under which a child can be taken into immediate custody. Those circumstances remain the same:

- (1) When the court issues an immediate custody order or a warrant.
- (2) In accordance with the laws relating to arrests.
- (3) By a peace officer
 - (a) When a child has run away from his parent, guardian, or custodian, or when the peace officer reasonably believes that such child has run away from his parent, guardian, or custodian, or
 - (b) When a child is found in surroundings or conditions which endanger the child's health or welfare or which such peace officer reasonably believes will endanger such child's health or welfare.
- (4) By a peace officer or probation or parole officer when it is reasonably believed that the child has violated the terms of his probation, parole, or other field supervision.

The law does make some changes in what can happen after a police officer makes a decision to take a child into custody. Listed below are the most common situations in which police become involved with taking a child into custody. The law encourages police officers to continue to exercise their discretion in releasing the child to the custody of his parent, guardian, custodian, or other suitable person. It requires a number of notices to be given to both the juvenile and

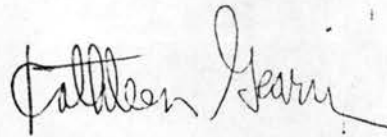
his parents by the detaining officer. The Welfare Department and the Department of Court Services have prepared a form for police officers to fill out when they take a child into custody, either because of the child's delinquent acts or because of the child being abandoned or abused in some manner. A copy of that form is attached to this memorandum. Some officers have asked about the provision in the new law that states that you have to tell the parent the location of the detention facility. They are concerned because in a situation where a child has been physically or sexually abused, it may further endanger the child to let the parent know what shelter facility the child is staying at. Our office recommends that if you have such a situation where you don't believe it's in the best interest of the child to let the parent know where that child is, prior to a court hearing, you check the box on the detention report form under "Notices to Parent" which states: "I have been unable to give the required notices to the parents for the following reasons" and then state why you don't think the parents should know where the child is. This detention report form will then be presented by either the Welfare Department or Court Services to the court, and form the basis for the court's signing an order continuing detention until a full court hearing can be held. A petition has to be filed either alleging that the child is delinquent, or dependent and neglected, within thirty-six hours after detention of the child. Under the old law, there was a forty-eight hour period.

Examples of detention situations and choices:

1. When a child is taken into custody because he is delinquent in that he has done something which if he were an adult would be a violation of a criminal statute or ordinance, he can be placed in Woodview, a shelter facility, or released to some suitable adult. If this child is placed in some type of shelter facility, he can't be placed in a shelter facility that also houses dependent and neglected children.
2. If a child is taken into custody because he is a status offender (runaway, truant, beyond control, habitually disobedient), he can be placed in Woodview only if he has previously run from a shelter facility. He can be placed in a shelter facility that houses either criminally delinquent children or dependent and neglected children. The exception to the "previously escaped from a shelter care facility" requirement before a status offender can be placed at Woodview, is if the child is from another state and has been absent from his home for more than twenty-four hours without the permission of his parent, guardian, or other custodian. A status offender can also be released to a parent or other suitable adult. It may not seem to make sense to put a runaway in a nonsecure shelter care facility, but that's what the law states.
3. If a child is taken into custody because he is a probation or parole violator and was placed on probation or parole because of criminally delinquent behavior, he can be placed in a shelter home, released to an adult, or placed at Woodview.

4. If a child is taken into custody because he is found in surroundings or conditions which endanger the child's health or welfare (a typical dependency or neglect, physical abuse, sexual abuse, case), the child can be placed in a shelter facility. This type of police hold really hasn't changed as far as where the child can be placed. These children cannot, however, be placed in the same facility as criminally delinquent children. I don't think our county has been doing that.

I hope this will be helpful to you.



KATHLEEN GEARIN
Assistant Ramsey County Attorney

KG:jh

August 20, 1976

DETENTION REPORT

Juvenile _____ Age _____ D.O.B. _____
Address _____ County _____ State _____
Parents/Custodian Name _____ Phone _____
Address _____

Juvenile was taken into custody at (place) _____
date: _____ time: _____, officer: _____
department: _____ for the following reason(s): _____

This officer/detaining person believes that detention of juvenile is necessary because there is reason to believe () his health or welfare is immediately endangered; () his conduct represents a danger to himself; () his conduct represents a danger to others; () he would not remain in the custody of his parent/guardian or custodian; () he would not appear in court as directed; based upon the following facts: _____

Juvenile was placed at (place) _____ date: _____
time: _____

Based upon the reasons and facts, which I hereby certify as true and correct the best of my knowledge and belief, this officer/detaining person requests the Court issue its order detaining juvenile. I further certify that the notifications required by statute, checked off below, have been given as required.

(signature of officer/detaining person)

NOTICES TO PARENT

NOTICES TO JUVENILE

- () Reason for Detention
- () Place of Detention
- () Right to an initial visit at any time
- () Right to subsequent visits at reasonable times.
- () That juvenile may be detained no more than 36 hours, excluding Sundays and Holidays unless a petition has been filed and the Court orders detention after a hearing.
- () I have been unable to give the required notices to the parent for the following reason(s) _____

- () Reason for Detention
- () Place of Detention
- () Right to telephone parent and attorney immediately upon placement in detention
- () That juvenile may be detained no more than 36 hours, excluding Sundays and Holidays, unless a petition has been filed and the Court orders detention after a hearing.

To be completed by the Officer/Detaining Person. Original to Court, yellow to Detention Supervisor, pink to juvenile, blue to parent, green to officer/detaining person.

DETENTION SUPERVISOR'S
REPORT

TO THE COURT

DATE _____

I hereby certify that _____ was received
at _____ (name)
at _____ (place) on _____ (date)
at _____ M., delivered/placed here by _____
(time) (officer/detaining person)

I further certify that the following notifications; required by statute, checked off below were given.

(signature)

DETENTION REPORT

Juvenile _____ Age _____ D.O.B. _____
Address _____ County _____ State _____
Parents/Custodian Name _____ Phone _____
Address _____

Juvenile was taken into custody at (place) _____
date: _____ time: _____, officer: _____
department: _____ for the following reason(s): _____

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time: _____

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REPORT

TO THE COURT

DATE _____

I hereby certify that _____ was received
(name)
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(place) (date)
at _____ M., delivered/placed here by _____
(time) (officer/detaining person)

I further certify that the following notifications; required by statute, checked off below were given.

(signature)

Academic Course

H. Crimes Against the Family

General learning goal: The student will understand the elements of the crimes against the family as stated in Minnesota law.

Performance objectives:

1. The student will cite the elements and the punishments of the crimes of Bigamy, Adultery and Incest.
(§609.355, 609.36, 609.365)
2. The student will define the term "child" as used in the Criminal Code and cite the elements and punishment of the crime of Non-support of wife or child.
(§609.37, 609.375)

- D. High blood pressure.
- E. Epilepsy.
- F. Head injury.
- G. Hardening of the arteries.
- H. Amnesia.
- I. Influence of alcohol or drugs.

4. The student will demonstrate that he/she can recognize and define the elements of a psychopathic or sociopathic personality.

✓ 5. The student will demonstrate that he/she can recognize and define the various forms of chemical dependency.

6. The student will successfully explain how chemical dependency can affect human behavior.

✓ 7. The student will recognize and define the following types of sexual deviation:

A. Homosexuality.

D. Transvestism.

B. Exhibitionism.

E. Masochism.

C. Fetishism.

F. Child molestation.

✓ 8. The student will be able to identify, in writing, the following three elements of physical or emotional child neglect:

A. Malnutrition.

B. Lack of proper medical - dental care, food, clothing, etc.

C. Environmental deterioration, (vermin, parasites, filth, etc.).

D. Extreme friction or discord in the home.

✓ 9. The student will be able to identify and explain at least four of the following signs of physical abuse upon a child:

A. Beatings with fists or blunt instruments.

B. Cutting or strangling.

C. Burns or scalding.

D. Forced use of drugs.

- ✓ E. Sexual abuse.
- F. Frequent unexplained or poorly explained injuries, bumps, bruises, lacerations.
- ✓ 10. The student will be able to identify and demonstrate a thorough understanding of the state laws pertaining to the rights of accused persons who have hearing impairments.
- ✓ 11. The student will demonstrate that he/she understands the following methods of identifying persons who have hearing impairment:
 - A. A person who seemingly ignores orders or directions in emergency situations.
 - B. A person who looks attentatively at everyone present and tries to read facial expressions and gestures.
- ✓ 12. The student will demonstrate that he/she understands how to detect someone who is pretending to be deaf.
- ✓ 13. The student will be able to identify and understand the following means of communication with a deaf person:
 - A. Lip reading.
 - B. Sign language (basic signs for law enforcement officers).
 - C. Written communication.
 - D. An interpreter.
- 14. The student will demonstrate that he/she knows where and how to obtain the services of an interpreter.
- ✓ 15. The student will demonstrate that he/she understands the special circumstances of making a traffic stop involving a deaf driver.
 - A. The deaf driver is unable to hear a siren.
 - B. The deaf driver reaches for pencil and paper (the officer may think the driver is going for a weapon.)
 - C. The deaf driver displays a poor sense of balance (the officer may interpret this behavior as intoxication).
 - D. A peace officer must allow a deaf person the opportunity to explain his actions.
- ✓ 16. The student will demonstrate that he/she understands the reasons why deaf people often make superior witnesses in criminal investigations.

LEARNING OBJECTIVES
FOR POST-SECONDARY COURSES IN LAW ENFORCEMENT

V. JUVENILE JUSTICE

General learning goal: The student will understand the basic principles of the Juvenile Justice System.

A. Selected Statutes Pertaining to Juveniles

Performance objectives:

1. The student shall be able to demonstrate in writing that he/she understands what a delinquent child is, according to Minnesota law.
2. The student shall demonstrate in writing that he/she understands the law regarding release of juveniles from custody.
3. The student will be able to explain in writing the intent and meaning of Minn. Stat. §626.556 (Reporting of Maltreatment of minors).
4. The student will demonstrate that he/she understands the proper procedures for handling juvenile traffic offenders [Minn. Stat. §260.193].
5. The student shall demonstrate that he/she understands the law governing juvenile police records, by properly identifying and explaining §260.161 Subd. 3.

B. Juvenile Procedures

Performance objectives:

1. The student will demonstrate, in writing, that he/she understands the following terms by correctly spelling and using these terms in a properly constructed sentence:
 - a. Child.
 - b. Child placing agency.
 - c. Court.
 - d. Delinquent child.
 - e. Status offender.
 - f. Dependent child.
 - g. Neglected child.
 - h. Custodian.
 - i. Physically abused child.
 - j. Sexually abused child.
2. The student will be able to explain the function and purpose of juvenile detention facilities.
3. The student will demonstrate, in writing, that he/she understands when a peace officer may take a child into custody:
 - A. For delinquent acts.
 - B. As a dependent, neglected, abused child, or status offender.
4. The student will demonstrate that he/she understands the justification and proper procedures for photographing and/or fingerprinting juveniles.
5. The student will demonstrate that he/she understands the five primary objectives of law enforcement in dealing with juveniles:
 - A. Delinquency prevention.
 - B. Protection of the juvenile.
 - C. Discovery of delinquency.
 - D. Investigation of delinquency and the cases of delinquency.
 - E. Proper disposition of delinquent.
6. The student shall demonstrate that he/she understands that it is the responsibility of every peace officer to uncover and investigate the following activities or situations in regards to juveniles:

- A. Neglect cases.
 - B. Neighborhood or community hazards.
 - C. Sex delinquency.
 - D. Unsupervised children.
 - E. Abandoned children.
 - F. Juvenile gang activity.
 - G. Suspicious circumstances indicating activity of a criminal nature.
 - H. Physical and/or sexual abuse.
7. The student shall demonstrate that he/she understands that there is little to differentiate between the investigation of a juvenile matter and an adult matter, but that learning the underlying causes for the delinquent behavior of a child will provide a more intelligent basis for referral of disposition of that child.
8. The student will identify and explain four of the following methods which should be employed when dealing with juvenile offenders:
- A. Treat the juvenile with consideration and try to gain his respect.
 - B. Be friendly.
 - C. Be firm but fair.
 - D. Be a good listener (discover his/her problems).
 - E. Show a genuine interest in his/her problems.
 - F. Be positive in your attitude.
 - G. Try to put yourself in the child's position (to better understand his/her reasoning).
9. The student will identify the following methods to avoid when dealing with juvenile offenders:
- A. Resorting to vulgarity or profanity.
 - B. Labeling or branding the youth with words such as, "thief", "liar", "burglar", "punk", etc.

Profile of Abusive or Neglectful Parents

Abusive or neglectful parents are likely to share several of the following characteristics:

- They are isolated from family supports, such as friends, relatives, neighbors, and community groups.
- They consistently fail to keep appointments, discourage social contact, rarely or never participate in school activities.
- They seem to trust no one.
- They are reluctant to give information about the child's injuries or condition. They are unable to explain the injuries or they give far-fetched explanations.
- They respond inappropriately to the child's condition, either by overreacting, or seeming hostile and antagonistic when questioned; or they under-react, showing little concern or awareness and seem more occupied with their own problems than those of the child.
- They refuse to consent to diagnostic studies of the child.
- They delay or fail to take the child for medical care—for routine checkups or for treatment of injury or illness. Or they may choose a different doctor or hospital each time.
- They are overcritical of the child and seldom discuss the child in positive terms.
- They have unrealistic expectations of the child, expecting or demanding behavior that is beyond the child's years or ability.
- They believe in harsh punishment.
- They seldom touch or look at the child.
- They ignore the child's crying or react with impatience.
- They keep the child confined—perhaps in a crib or playpen—for very long periods of time.
- They seem to lack understanding of the child's physical and emotional needs.
- They are hard to locate.
- They may be misusing alcohol or drugs.
- They appear to lack control or fear that they may lose control.
- Their behavior may generally be irrational, they may seem incapable of child-rearing, and may seem to be cruel and sadistic.

Profile of Abused or Neglected Children

Abused or neglected children are likely to share several of the following characteristics:

- They appear to be different from other children in physical and emotional makeup or their parents describe them as being different or bad.
- They seem afraid of their parents.
- They may bear bruises, welts, sores, or other skin injuries, which seem to be untreated.
- They are given inappropriate food, drink, or medication.
- They are left alone or with inadequate supervision.
- They are chronically unclean.
- They exhibit extremes in behavior: cry often or cry very little and show no real expectation of being comforted; they are excessively fearful or seem fearless of adult authority; they are unusually aggressive or extremely passive or withdrawn.
- They are wary of physical contact, especially with an adult. They may be hungry for affection yet have difficulty relating to children and adults. Based on their experiences, they feel they cannot risk getting close to others.
- They exhibit a sudden change in behavior, exhibit regressive behavior, such as wetting their pants or bed, thumb-sucking, whining, or becoming uncommonly shy or passive.
- They have learning problems that cannot be diagnosed. Their attention wanders and they easily become self-absorbed.
- They are habitually truant or late to school. Frequent or prolonged absences from school may result from the parent's keeping an injured child at home until the evidence of abuse disappears. Or they may arrive at school early and remain after classes instead of going home.
- They are tired and often sleep in class.
- They are not dressed appropriately for the weather. Children who wear long sleeves on hot days may be dressed to hide bruises or burns or other marks of abuse or they may be dressed inadequately and suffer frostbite or illness from exposure to the weather.

Ch. 262

71st LEGISLATURE

ployee serving on less than a full-time basis as a police officer or fire fighter, as determined by the rules prescribed by the board of trustees, shall become a member of the public employees police and fire fund only after a resolution is adopted by the governing body of the governmental subdivision employing such person declaring that the position such person holds is either that of a police officer or fire fighter. Any police officer or fire fighter who by virtue of his employment is required to contribute to any other pension, relief, or retirement fund established for the benefit of officers and employees of a governmental subdivision shall not be a member of this fund.

Sec. 3. Notwithstanding section 71 of H.F.No.736, section 9 of H.F.No.736 as finally enacted by the 1979 legislature shall be effective August 1, 1979. [See Laws 1979, c. 293]

Approved May 29, 1979.

CHILDREN—TAKING IN VIOLATION OF COURT ORDER

CHAPTER 263

H.F.No.1238

An Act relating to crimes; prohibiting taking, detaining, or failing to return a child in violation of a court order; prescribing penalties; amending Minnesota Statutes 1978, Section 609.26.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1978, Section 609.26, is amended to read:
609.26 Obtaining or retaining a child

Subdivision 1. Whoever intentionally takes, detains or fails to return his own child under the age of 18 years in violation of an existing court order which grants another person rights of custody may be sentenced as provided in subdivision 5.

Subd. 2. Whoever detains or fails to return a child under the age of 18 years knowing that the physical custody of the child has been obtained or retained by another in violation of subdivision 1 may be sentenced as provided in subdivision 5.

Subd. 3. A person who violates this section may be prosecuted and tried either in the county in which the child was taken, concealed or detained or in the county of lawful residence of the child.

Subd. 4. A child who has been obtained or retained in violation of this section shall be returned to the person having lawful custody of the child. In addition to any sentence imposed, the court may assess any expense incurred in returning the child against any person convicted of violating this section.

Subd. 5. Whoever violates this section may be sentenced as follows:

(1) To imprisonment for not more than 90 days or to payment of a fine of not more than \$500, or both, if he voluntarily returns the child within 14 days after he takes, detains or fails to return the child in violation of this section; or

(2) Otherwise to imprisonment for not more than one year and one day or to payment of a fine of \$1,000, or both.

Sec. 2. **Effective date.** This act is effective on the day following final enactment and applies to all crimes committed on or after that date.

Approved May 29, 1979.

518B.01 Domestic abuse act.

518B.01 DOMESTIC ABUSE ACT.

1980

Subdivision 1. **Short title.** This section may be cited as the domestic abuse act.

Subd. 2. **Definitions.** As used in this section, the following terms shall have the meanings given them:

(a) "Domestic abuse" means: (i) physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members; or (ii) criminal sexual conduct, within the meaning of sections 609.342, 609.343, 609.344, or 609.345, committed against a minor family or household member by an adult family or household member;

(b) "Family or household members" means spouses, parents and children, persons related by consanguinity, and persons jointly residing in the same dwelling unit.

Subd. 3. **Court jurisdiction.** An application for relief under this section may be filed in the court having jurisdiction over dissolution actions. In a jurisdiction which utilizes referees in dissolution actions, the court or judge may refer actions under this section to a referee to take and report the evidence therein in the same manner and subject to the same limitations as is provided in section 518.13. Actions under this section shall be given docket priorities by the court.

Subd. 4. **Order for protection.** There shall exist an action known as a petition for an order for protection in cases of domestic abuse.

(a) A petition for relief under this section may be made by any family or household member on behalf of himself or herself or on behalf of minor family or household members.

(b) A petition for relief shall allege the existence of domestic abuse, and shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought.

(c) A petition for relief may be made regardless of whether or not there is a pending lawsuit, complaint, petition or other action between the parties.

(d) The court shall provide simplified forms and clerical assistance to help with the writing and filing of a petition under this section by any person not represented by counsel.

(e) The court shall advise a petitioner under clause (d) of the right to file a motion and affidavit and to sue in forma pauperis pursuant to section 563.01 and shall assist with the writing and filing of the motion and affidavit.

Subd. 5. **Hearing on application.** Upon receipt of the petition, the court shall order a hearing which shall be held not later than 14 days from the date of the order. Personal service shall be made upon the respondent not less than five days prior to the hearing. In the event that service cannot be made, the court may set a new date.

Subd. 6. **Relief by the court.** Upon notice and hearing, the court may provide relief as follows:

(a) Restrain any party from committing acts of domestic abuse;

(b) Exclude the abusing party from the dwelling which the parties share or from the residence of the petitioner;

(c) On the same basis as is provided in chapter 518, award temporary custody or establish temporary visitation with regard to minor children of the parties;

(d) On the same basis as is provided in chapter 518, establish temporary support for minor children or a spouse;

(e) Provide counseling or other social services for the parties, if married, or if there are minor children;

(f) Order, in its discretion, other relief as it deems necessary for the protection of a family or household member, including orders or directives to the sheriff or constable, as provided by this section.

Any relief granted by the order for protection shall be for a fixed period not to exceed one year.

Subd. 7. Temporary order. Where an application under this section alleges an immediate and present danger of domestic abuse, the court may grant an ex parte temporary order for protection, pending a full hearing, and granting relief as the court deems proper, including an order:

(a) Restraining any party from committing acts of domestic abuse;

(b) Excluding any party from the dwelling they share or from the residence of the other except by further order of the court.

An ex parte temporary order for protection shall be effective for a fixed period not to exceed 14 days. A full hearing, as provided by this section, shall be set for not later than seven days from the issuance of the temporary order. The respondent shall be served forthwith, a copy of the ex parte order along with a copy of the petition and notice of the date set for the hearing.

Subd. 8. Service of order. Any order issued under this section shall be personally served upon the respondent.

Subd. 9. Assistance of sheriff in service or execution. When an order is issued under this section upon request of the petitioner, the court shall order the sheriff or constable to accompany the petitioner and assist in placing the petitioner in possession of the dwelling or residence, or otherwise assist in execution or service of the order of protection.

Subd. 10. Right to apply for relief. (a) A person's right to apply for relief shall not be affected by his or her leaving the residence or household to avoid abuse.

(b) The court shall not require security or bond of any party unless it deems necessary in exceptional cases.

Subd. 11. Modification of order. Upon application, notice to all parties, and hearing, the court may modify the terms of an existing order for protection.

Subd. 12. Real estate. Nothing in this section shall affect the title to real estate.

Subd. 13. Copy to law enforcement agency. Upon the request of the petitioner, any order for protection granted pursuant to this section shall be forwarded by the clerk of court within 24 hours to the local law enforcement agency with jurisdiction over the residence of the applicant.

Each appropriate law enforcement agency shall make available to other law enforcement officers through a system for verification, information as to the existence and status of any order for protection issued pursuant to this section.

Subd. 14. Violation of an order for protection. (a) Whenever an order for protection is granted pursuant to this section, and the respondent or person to be restrained knows of the order, violation of the order for protection is a misdemeanor.

H.F. 1279

Section 1 (Contributing to Neglect or Delinquency, M.S. 260.315).
A 1982 amendment to the Juvenile Code separated "delinquency" from "status offenses". No change was made in the Contributing Statute to allow for this distinction, and as a result a large number of misdemeanor offenses against adults previously prosecutable were now inadvertently unprosecutable. Section 1 simply remedies that error by making clear that contributing to the delinquency of a minor also includes contributing to a child's status as a status offender. With this change we will again be able to charge the adult who, for example, harbors a runaway (often in repeated and flagrant violation of the parents' wishes, including situations where more is involved than mere harboring but is unprovable because the juvenile refuses to implicate the harborer) and providing alcohol to minors.

Section 2 (Statements of Child Sex Victims Under Age 10, M.S. 595.02). This amendment simplifies the existing exception to the Child Competency Statute by stating that the child will be allowed to describe or relate in language appropriate for a child of that age "any act of sexual contact or penetration performed on or with a child by another". This eliminates the technical citation of Intrafamilial and Criminal Sexual Conduct Statutes and also the limitation to criminal proceedings. Thus, a child sex victim would be allowed to testify in, for example, Juvenile Court or Family Court proceedings.

The second change to this statute is more substantial. It specifies that the hearsay of a child under age 10^{describing sexual abuse} is admissible into evidence if certain criteria are met. The criteria are clearly enunciated to be in keeping with present rules of evidence and case law to protect the defendant's right of confrontation. These include notifying the adverse party in advance, having a pre-trial hearing to determine whether the hearsay is necessary and reliable, and a further requirement that either the child testifies in addition to the hearsay or that if the child is unavailable (meaning generally incompetency) that there is corroborative evidence of the crime.

By limiting this hearsay exception to children under the age of 10, we are affording additional protection in child sexual abuse cases to the children who need it most. These are the children who may be least likely 4 to 6 months after the initial police report to recall the details of the offense, and their hearsay statements to others at or near the time of the offense or the initial report are likely to be more vivid, detailed, and spontaneous than what is likely in the formal and often frightening setting of a courtroom. These hearsay statements are crucial to helping the jury understand what happened to the child. The indicia^{of} reliability which go to a pre-trial determination of whether the statement is admissible will also be useful to the jury in evaluating the credibility of the allegations. Our statutes require that a person may not be convicted of a crime based on his confession alone. Thus, in a case where the child

was so young that he or she was incompetent to testify although the child at least at some earlier time had been able to tell someone else what had happened, the case would be unprosecutable even if the defendant confessed under present law. With this change that child's earlier statement along with its indicia of reliability would in connection with a confession (i.e., corroboration of the offense) be sufficient to convict. Thus, the statute goes a long way to protect the youngest and most vulnerable victims of sexual abuse and to see to it that perpetrators of crimes against these vulnerable victims are prosecuted. The younger the child, the greater the need for this protection; it's also worth noting that the younger the child the less likely the possibility of fabrication. In fact, the proposed statute applies to children under the age of 10 in part because these are the victims least likely to fabricate.

Most people would agree if they heard the kinds of circumstances in which this type of hearsay arises, that it is extremely reliable and would be horrified to find it may not be admissible and cases based on it not prosecutable. Here is an actual case example from the State of Washington which fortunately was prosecutable under the new Washington statute.

In August when Shauna was 2 years old she and her mother moved into defendant's home. Defendant began baby-sitting Shauna. The following summer (1981) Shauna began complaining to her mother that her vaginal area and bottom were irritated and sore. Shauna also said that defendant put his penis there. In October 1981 mom took Shauna to the doctor because of these complaints. No medical reason for these complaints was discovered. On two occasions when mom was kissing Shauna, Shauna put her tongue in her mother's mouth. Mom asked Shauna why she did this and Shauna replied, "That's how (defendant) does it". Mom told Shauna to tell defendant she did not like that. Shauna replied that she did not like defendant's "pee-pee". When asked why, Shauna responded, "He made me suck on it." On November 4 Shauna told a social worker while playing that, "(Defendant) put his tongue in my mouth" and "He put his finger in my bottom". On November 5 defendant was arrested and admitted he had placed his finger in Shauna's vagina and had her suck his penis on numerous occasions, the last being in July or August of 1981.

Shauna was incompetent to testify and the case would have been unprosecutable without the hearsay being admitted.

Present Minnesota rules of evidence and case law would probably not allow prosecution of this case in Minnesota.

Even older children who do testify but are still under the age of 10 may, when on the witness stand, be unable to recall sufficient detail to substantiate all the elements of all the offenses charged. Even when they do recall, it is important for a jury to hear the vividness with which those details were described earlier on. Present case law and rules of evidence in Minnesota could be construed to allow this kind of hearsay at the present time; however, a statute dealing specifically with this situation will make this evidence far more uniformly admitted. It has the advantage of placing clearly and precisely in one place a statement of policy and law which otherwise has to be derived and argued from several different sources.

Moreover, the prosecutor frequently doesn't know until the case comes to trial if the child will or won't be able to testify and to what extent the child is able to testify. Therefore, it is far more likely that a case will be charged in the first instance if our proposed statute becomes law, as it will also be far more likely that a case will not go down the tubes if in the middle of trial it becomes apparent that a child can't testify.

Section 3 (Definition Section to Criminal Sexual Conduct, Minn. Stat. 609.341). The definition of "sexual contact" is amended to cover the situation in which a person induces a child under the age of 13 (or a mentally defective person) to sexually touch the perpetrator. Right now it is a crime for an actor to touch a child ^{under 13} sexually without the requirement of force, coercion, or position of authority. However, a loophole in the current definition would still require coercion or position of authority if the actor induced a child to touch him sexually. This would close that loophole.

Section 4 (Definition Section of Criminal Sexual Conduct Statute, Minn. Stat. 609.341). "Coercion" is redefined to substitute "words or circumstances which cause the complainant to reasonably fear" bodily harm for the words "threat". The problem has been that some juries have construed the word "threat" to mean a literal, actual verbal threat. Frequently when coercion is used, no word is spoken at all, although the circumstances would reasonably cause anyone to fear harm. Example: Pinning a victim to the ground while committing a sexual act would cause the victim to fear harm if she resisted even though o word was spoken.

Section 5 and Section 6 (Criminal Sexual Conduct in the First and Second Degree, Minn. Stat. 609.342 and 343). A frequent unchargeable sexual offense is the abuse of a position of authority over a 16- or 17-year-old child. Right now, persons

may only be charged with Criminal Sexual Conduct for abuse of position of authority if they are more than 48 months older than the victim and the victim is between 13 and 16. Many vulnerable victims are in the 16- and 17-year-old age group. These children may be victims of teachers, counsellors, police officers, probation officers, etc. Right now, unless force or coercion is used with children of these ages, no sexual crime is chargeable. By extending criminal sexual conduct offenses to cover 16- and 17-year-old juveniles abused by a person in position of authority, we would be going a long way to making that statute more parallel to the more recent Intrafamilial Sexual Abuse Statute which does allow for adults who abuse 16- and 17-year-olds within a family relationship to be charged. In the last year I was involved in an investigation of a staff member at the Woodview Detention Center, a secure juvenile detention facility. A staff member there cynically and deliberately picked out girls who had reached their 16th birthday to engage in sexual contact. These girls were disturbed, in trouble, eager for attention, and involuntarily in the detention center. The staff member correctly guessed that most of these girls would never tell and if they did, no one would believe them. The only thing we could charge in this case was Mistreatment of Confined Persons, a gross misdemeanor, which did not do justice to what had happened there. Every year we have to turn down instances involving teachers, priests, Boy Scout leaders, etc., persons who are in positions of authority who have deliberately picked 16- and 17-year-olds for sexual contact and have misused their position of authority but have not used force or coercion.

Section 7 (Subsequent Criminal Sexual Conduct Offenses, M.S. 609.346). Current law provides for a mandatory minimum 3-year prison sentence upon conviction of a second sex offense. However, the current law does not specify that this mandatory minimum applies if either the past or the current offense is an attempt as opposed to a completed offense. This change would simply make this statute consistent with the 609.11 statute for mandatory minimum prison sentences for use of a dangerous weapon in crimes by making it clear that it applies to attempts as well as completed offenses.

Section 8 (Criminal Sexual Conduct Evidence, M.S. 609.347). The amendment here would simply add Intrafamilial Sexual Abuse and incest to the present reference to Criminal Sexual Conduct offenses to make clear that prosecutions under any of these statutes could allow evidence of the complainant's prior sexual experience only under extremely limited and controlled circumstances. I had a case in the past year in which a father was charged with Intrafamilial Sexual Abuse of his daughter and sought to introduce his daughter's prior sexual experience. The Judge ruled that the present evidence section did not apply to Intrafamilial Sexual Abuse and was going to allow the evidence about the daughter's prior sexual experience.

Section 9 (Intrafamilial Sexual Abuse Definitions, Minn. Stat. 609.364). The "familial relationship" definition is simplified to eliminate the archaic language of the old Incest Statute and to eliminate the loophole which precluded charging a first cousin by blood. I became aware of this loophole when I had a blood first cousin perpetrator this year who could not be charged under this statute.

Section 10 (Evidence Not Privileged Section of the Maltreatment of Minors Reporting Act, Minn. Stat. 626.556). Present law eliminates physician-patient and husband-wife privilege when it comes to testifying in any proceeding arising out of neglect or physical or sexual abuse of children. The privilege currently is not abrogated for ~~psychologists~~. Yet, psychologists as well as physicians, psychiatrists and other helping professionals, must all report abuse. The anomalous result is that while a psychiatrist must report and testify, a psychologist must only report. There is no legitimate policy reason to extend a greater privilege to a psychologist than to a psychiatrist when the overriding interest is protection of children from abuse. Another amendment to this section would simply expand the language which now says evidence "regarding the child's injuries" to make clear that we are talking about evidence relating to neglect or abuse of a child or any prior instances of neglect or abuse involving any of the same persons accused of the neglect or abuse. The present language could be narrowly construed to mean only physical injuries. Yet doctors and psychologists frequently have knowledge of neglect or abuse that does not involve actual visible physical injury. At the present time, we have had frequent instances, particularly in termination of parental rights cases and neglect cases in Juvenile Court, where a psychologist for one or the other parent will have a privilege asserted and will not be able to testify even though that psychologist may have the most revealing and compelling evidence related to the litigation. The court is thereby prevented from knowing all relevant evidence to making a proper decision in these important cases.

November 30, 1983

Jeanne L. Schleh
Assistant Ramsey County Attorney

AN ACT

1
 2 relating to crimes; authorizing courts to order
 3 certain persons to participate in counseling in
 4 domestic abuse cases; creating the crime of
 5 ~~intrafamilial sexual abuse~~; prescribing penalties;
 6 amending Minnesota Statutes 1980, Sections 15.1695,
 7 Subdivision 1; 518B.01, Subdivision 6; 595.02;
 8 609.346; 609.348; 609.35; 626.556, Subdivision 2; and
 9 ^{subsec} 629.341, Subdivision 1; proposing new law coded in
 10 Minnesota Statutes, Chapter 609.

bf med
EXAMCASTS

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

12 Section 1. Minnesota Statutes 1980, Section 15.1695,
 13 Subdivision 1, is amended to read:

14 Subdivision 1. When collected, created, or maintained by
 15 law enforcement agencies including municipal police departments,
 16 county sheriff departments, the bureau of criminal apprehension,
 17 the Minnesota state patrol, the peace officers standards and
 18 training board, or public prosecutors or defenders:

19 (a) Data on participants in crime prevention programs
 20 including lists of property with identification numbers or
 21 evaluations or recommendations related to structural security
 22 against unauthorized entry is private; and

23 (b) Data contained on incident complaint reports, variously
 24 called logs or dockets, comprising a chronological record of
 25 events, shall be public; provided that data on individuals which
 26 could reasonably be used to determine the identity of an
 27 undercover agent, informant, or victim of criminal sexual
 28

conduct or intrafamilial sexual abuse shall be private data on

2 individuals; provided further that any other data classified by
3 law as private or confidential contained in incident complaint
4 reports shall remain private or confidential data.

5 Sec. 2. Minnesota Statutes 1980, Section 518B.01,
6 Subdivision 6, is amended to read:

7 Subd. 6. [RELIEF BY THE COURT.] Upon notice and hearing,
8 the court may provide relief as follows:

9 (a) Restrain any party from committing acts of domestic
10 abuse;

11 (b) Exclude the abusing party from the dwelling which the
12 parties share or from the residence of the petitioner;

13 (c) On the same basis as is provided in chapter 518, award
14 temporary custody or establish temporary visitation with regard
15 to minor children of the parties;

16 (d) On the same basis as is provided in chapter 518,
17 establish temporary support for minor children or a spouse;

18 (e) Provide counseling or other social services for the
19 parties, if married, or if there are minor children;

20 (f) Order the abusing party to participate in treatment or

21 counseling services;

22 (g) Order, in its discretion, other relief as it deems

23 necessary for the protection of a family or household member,
24 including orders or directives to the sheriff or constable, as
25 provided by this section.

26 Any relief granted by the order for protection shall be for
27 a fixed period not to exceed one year.

28 Sec. 3. Minnesota Statutes 1980, Section 595.02, is
29 amended to read:

30 595.02 [COMPETENCY OF WITNESSES.]

31 Every person of sufficient understanding, including a
32 party, may testify in any action or proceeding, civil or
33 criminal, in court or before any person who has authority to
34 receive evidence, except as follows:

35 (1) A husband cannot be examined for or against his wife
36 without her consent, nor a wife for or against her husband

1 without his consent, nor can either, during the marriage or
2 afterwards, without the consent of the other, be examined as to
3 any communication made by one to the other during the marriage.
4 This exception does not apply to a civil action or proceeding by
5 one against the other, nor to a criminal action or proceeding
6 for a crime committed by one against the other or against a
7 child of either, nor to a criminal action or proceeding in which
8 one is charged with homicide or an attempt to commit homicide
9 and the date of the marriage of the defendant is subsequent to
10 the date of the offense, nor to an action or proceeding for
11 non-support, neglect, dependency, or termination of parental
12 rights;

13 (2) An attorney cannot, without the consent of his client,
14 be examined as to any communication made by the client to him or
15 his advice given thereon in the course of professional duty; nor
16 can any employee of such the attorney be examined as to such the
17 communication or advice, without the client's consent;

18 (3) A clergyman or other minister of any religion shall
19 not, without the consent of the party making the confession, be
20 allowed to disclose a confession made to him in his professional
21 character, in the course of discipline enjoined by the rules or
22 practice of the religious body to which he belongs; nor shall a
23 clergyman or other minister of any religion be examined as to
24 any communication made to him by any person seeking religious or
25 spiritual advice, aid, or comfort or his advice given thereon in
26 the course of his professional character, without the consent of
27 such the person;

28 (4) A licensed physician or surgeon, dentist, or
29 chiropractor shall not, without the consent of his patient, be
30 allowed to disclose any information or any opinion based thereon
31 which he acquired in attending the patient in a professional
32 capacity, and which was necessary to enable him to act in that
33 capacity; after the decease of such the patient, in an action to
34 recover insurance benefits, where the insurance has been in
35 existence two years or more, the beneficiaries shall be deemed
36 to be the personal representatives of such the deceased person

1 for the purpose of waiving the this privilege hereinbefore
2 created, and no oral or written waiver of the privilege
3 hereinbefore created shall have any binding force or effect
4 except that the same be when made upon the trial or examination
5 where the evidence is offered or received;

6 (5) A public officer shall not be allowed to disclose
7 communications made to him in official confidence when the
8 public interest would suffer by the disclosure;

9 (6) Persons of unsound mind; persons intoxicated at the
10 time of their production for examination, and children under ten
11 years of age, who appear incapable of receiving just impressions
12 of the facts respecting which they are examined, or of relating
13 them truly, are not competent witnesses. This exception does
14 not apply to a child under ten years of age, in a criminal
15 proceeding for intrafamilial sexual abuse as defined in section
16 7, subdivision 10, or in a criminal proceeding under sections
17 609.342 clause (a), 609.343 clause (a), 609.344 clause (a), or
18 609.345 clause (a), who is able to describe or relate in
19 language appropriate for a child of that age the events or facts
20 respecting which the child is examined;

21 (7) A registered nurse, psychologist or consulting
22 psychologist shall not, without the consent of his client, be
23 allowed to disclose any information or opinion based thereon
24 which he acquired in attending the client in a professional
25 capacity, and which was necessary to enable him to act in that
26 capacity.

27 Sec. 4. Minnesota Statutes 1980, Section 609.346, is
28 amended to read:

29 609.346 [SUBSEQUENT OFFENSES.]

30 Subdivision 1. If a person is convicted of a second or
31 subsequent offense under sections 609.342 to ~~609.346~~ 609.345 or
32 sections 7 to 11 within 15 years of the prior conviction, the
33 court shall commit the defendant to the commissioner of
34 corrections for imprisonment for a term of not less than three
35 years, nor more than the maximum sentence provided by law for
36 the offense for which convicted, notwithstanding the provisions

1 of sections 242.19, 243.05, 609.11, 609.12 and 609.135.

2 Subd. 2. For the purposes of this section, an offense is
3 considered a second or subsequent offense if, prior to
4 conviction of the second or subsequent offense, the actor has
5 been at any time convicted under sections 609.342 to 609.346 or
6 sections 7 to 11 or under any similar statute of the United
7 States, or this or any other state.

8 Sec. 5. Minnesota Statutes 1980, Section 609.348, is
9 amended to read:

10 609.348 [MEDICAL PURPOSES; EXCLUSION.]

11 Laws 1975, Chapter 374, and sections 7 to 11 shall not
12 apply to sexual penetration or sexual contact when done for a
13 bona fide medical purpose.

14 Sec. 6. Minnesota Statutes 1980, Section 609.35, is
15 amended to read:

16 609.35 [COSTS OF MEDICAL EXAMINATION.]

17 No costs incurred by a county, city, or private hospital or
18 other emergency medical facility or by a private physician for
19 the examination of a complainant of criminal sexual conduct or
20 intrafamilial sexual abuse, as defined in section 7, subdivision
21 10, when the examination is performed for the purpose of
22 gathering evidence for possible prosecution, shall be charged
23 directly or indirectly to the complainant. The reasonable costs
24 of such the examination shall be paid by the county in which the
25 alleged offense was committed. Nothing in this section shall be
26 construed to limit the duties, responsibilities, or liabilities
27 of any insurer, whether public or private.

28 Sec. 7. [609.364] [DEFINITIONS.]

29 Subdivision 1. [SCOPE.] For the purposes of sections 3 and
30 7 to 11, the terms in this section have the meanings given them.

31 Subd. 2. [ACTOR.] "Actor" means an adult accused of
32 intrafamilial sexual abuse.

33 Subd. 3. [CHILD.] "Child" means a person under age 16.

34 Subd. 4. [COERCION.] "Coercion" means a threat to
35 unlawfully inflict bodily harm upon, or hold in confinement, as
36 person threatened or another.

1 Subd. 5. [COMPLAINANT.] "Complainant" means a child or
2 minor alleging to have been subjected to intrafamilial sexual
3 abuse, but need not be the person who signs the complaint.

4 Subd. 6. [CONSENT.] "Consent" means a voluntary uncoerced
5 manifestation of a present agreement to perform a particular
6 sexual act.

7 Subd. 7. [FORCE.] "Force" means the infliction, attempted
8 infliction, or threatened infliction by the actor of bodily harm
9 or commission or threat of any other crime by the actor against
10 the complainant or another, which causes the complainant to
11 reasonably believe that the actor has the present ability to
12 execute the threat.

13 Subd. 8. [INTIMATE PARTS.] "Intimate parts" includes the
14 primary genital area, groin, inner thigh, buttocks, or breast of
15 a human being.

16 Subd. 9. [FAMILIAL RELATIONSHIP.] "Familial relationship"
17 means a situation in which the actor is:

18 (a) The complainant's parent, stepparent, or guardian;

19 (b) Nearer of kin to the complainant than first cousin,
20 computed by rules of the civil law, whether of the half or the
21 whole blood;

22 (c) Any of the following persons related to the complainant
23 by marriage or adoption: brother, sister, stepbrother,
24 stepsister, first cousin, aunt, uncle, nephew, niece,
25 grandparent, great-grandparent, great-uncle, great-aunt; ^(or)

26 (d) An adult who jointly resides intermittently or
27 regularly in the same dwelling as the complainant and who is not
28 the complainant's spouse.

29 Subd. 10. [INTRAFAMILIAL SEXUAL ABUSE.] "Intrafamilial
30 sexual abuse" means sexual contact or sexual penetration, or
31 both, of a child or minor when the actor has a familial
32 relationship to the complainant. Neither mistake as to the
33 complainant's age nor consent to the act by the complainant is a
34 defense.

35 Subd. 11. [MINOR.] "Minor" means a person under age 18 but
36 age 16 or over.

1 Subd. 12. [PERSONAL INJURY.] "Personal injury" means
 2 bodily harm as defined in section 609.02, subdivision 7, or
 3 severe mental anguish, or pregnancy.

4 Subd. 13. [SEXUAL CONTACT.] "Sexual contact" includes any
 5 of the following acts, if the acts can reasonably be construed
 6 as being for the purpose of satisfying the actor's sexual or
 7 aggressive impulses:

8 (a) The intentional touching by the actor of the
 9 complainant's intimate parts;

10 (b) The touching by the complainant of the actor's, the
 11 complainant's, or another's intimate parts;

12 (c) The touching by another of the complainant's intimate
 13 parts; or

14 (d) In any of the cases listed above, touching of the
 15 clothing covering the immediate area of the intimate parts.

16 Subd. 14. [SEXUAL PENETRATION.] "Sexual penetration" means
 17 sexual intercourse, cunnilingus, fellatio, anal intercourse, or
 18 any intrusion however slight into the genital or anal openings
 19 of the complainant's body of any part of the actor's body or any
 20 object used by the actor for this purpose. Emission of semen is
 21 not necessary.

22 Sec. 8. [609.3641] [INTRAFAMILIAL SEXUAL ABUSE IN THE
 23 FIRST DEGREE.]

24 Subdivision 1. [CRIME DEFINED.] A person is guilty of
 25 intrafamilial sexual abuse in the first degree if:

26 (1) He has a familial relationship to and engages in sexual
 27 penetration with a child; or

28 (2) He has a familial relationship to and engages in sexual
 29 penetration with a child and:

30 (a) the actor or an accomplice used force or coercion to
 31 accomplish the penetration;

32 (b) the actor or an accomplice was armed with a dangerous
 33 weapon or any article used or fashioned in a manner to lead the
 34 complainant to reasonably believe it could be a dangerous weapon
 35 and used or threatened to use the dangerous weapon;

36 (c) circumstances existed at the time of the act to cause

1 the complainant to have a reasonable fear of imminent great
2 bodily harm to the complainant or another;

3 (d) the complainant suffered personal injury; or
4 (e) the intrafamilial sexual abuse involved multiple acts
5 committed over an extended period of time.

6 Subd. 2. [PENALTY.] A person convicted under subdivision
7 1, clause (1), may be sentenced to imprisonment for not more
8 than 20 years. Except when imprisonment is required by section
9 609.346, the court may stay imposition or execution of sentence
10 if it finds that a stay is in the best interest of the
11 complainant or the family unit. A person convicted under
12 subdivision 1, clause (2), may be sentenced to imprisonment for
13 not more than 20 years.

14 Sec. 9. [609.3642] [INTRAFAMILIAL SEXUAL ABUSE IN THE
15 SECOND DEGREE.]

16 Subdivision 1. [CRIME DEFINED.] A person is guilty of
17 intrafamilial sexual abuse in the second degree if:

18 (1) He has a familial relationship to and engages in sexual
19 contact with a child; or

20 (2) He has a familial relationship to and engages in sexual
21 contact with a child and:

22 (a) the actor or an accomplice used force or coercion to
23 accomplish the contact;

24 (b) the actor or an accomplice was armed with a dangerous
25 weapon or any article used or fashioned in a manner to lead the
26 complainant to reasonably believe it to be a dangerous weapon
27 and used or threatened to use the dangerous weapon;

28 (c) circumstances existed at the time of the act to cause
29 the complainant to have a reasonable fear of imminent great
30 bodily harm to the complainant or another;

31 (d) the complainant suffered personal injury; or

32 (e) the intrafamilial sexual abuse involved multiple acts
33 committed over an extended period of time.

34 Subd. 2. [PENALTY.] A person convicted under subdivision
35 1, clause (1), may be sentenced to imprisonment for not more
36 than 15 years. Except when imprisonment is required by section

1 609.346, the court may stay imposition or execution of the
2 sentence if it finds that a stay is in the best interest of the
3 complainant or the family unit. A person convicted under
4 subdivision 1, clause (2), may be sentenced to imprisonment for
5 not more than 15 years.

6 Sec. 10. [609.3643] [INTRAFAMILIAL SEXUAL ABUSE IN THE
7 THIRD DEGREE.]

8 Subdivision 1. [CRIME DEFINED.] A person is guilty of
9 intrafamilial sexual abuse in the third degree if:

10 (1) He has a familial relationship to and engages in sexual
11 penetration with a minor; or

12 (2) He has a familial relationship to and engages in sexual
13 penetration with a minor and:

14 (a) the actor or an accomplice used force or coercion to
15 accomplish the penetration;

16 (b) the actor or accomplice was armed with a dangerous
17 weapon or any article used or fashioned in a manner to lead the
18 complainant to reasonably believe it could be a dangerous weapon
19 and used or threatened to use the dangerous weapon;

20 (c) circumstances existed at the time of the act to cause
21 the complainant to have a reasonable fear of imminent great
22 bodily harm to the complainant or another;

23 (d) the complainant suffered personal injury; or

24 (e) the intrafamilial sexual abuse involved multiple acts
25 committed over an extended period of time.

26 Subd. 2. [PENALTY.] A person convicted under subdivision
27 1, clause (1), may be sentenced to imprisonment for not more
28 than ten years. Except when imprisonment is required by section
29 609.346, the court may stay imposition or execution of the
30 sentence if it finds that a stay is in the best interest of the
31 complainant or the family unit. A person convicted under
32 subdivision 1, clause (2), may be sentenced to imprisonment for
33 not more than ten years.

34 Sec. 11. [609.3644] [INTRAFAMILIAL SEXUAL ABUSE IN THE
35 FOURTH DEGREE.]

36 Subdivision 1. [CRIME DEFINED.] A person is guilty of

1. intrafamilial sexual abuse in the fourth degree if:

2. (1) He has a familial relationship to and engages in sexual
3. contact with a minor; or

4. (2) He has a familial relationship to and engages in sexual
5. contact with a minor and:

6. (a) the actor or an accomplice used force or coercion to
7. accomplish the contact;

8. (b) the actor or accomplice was armed with a dangerous
9. weapon or any article used or fashioned in a manner to lead the
10. complainant to reasonably believe it could be a dangerous weapon
11. and used or threatened to use the dangerous weapon;

12. (c) circumstances existed at the time of the act to cause
13. the complainant to have a reasonable fear of imminent great
14. bodily harm to the complainant or another;

15. (d) the complainant suffered personal injury; or

16. (e) the intrafamilial sexual abuse involved multiple acts
17. committed over an extended period of time.

18. Subd. 2. [PENALTY.] A person convicted under subdivision
19. 1, clause (1), may be sentenced to imprisonment for not more
20. than five years. Except when imprisonment is required by
21. section 609.346, the court may stay imposition or execution of
22. the sentence if it finds that a stay is in the best interest of
23. the complainant or the family unit. A person convicted under
24. subdivision 1, clause (2), may be sentenced to imprisonment for
25. not more than five years.

26. Sec. 12. Minnesota Statutes 1980, Section 626.556,
27. Subdivision 2, is amended to read:

28. Subd. 2. [DEFINITIONS.] As used in this section, the
29. following terms have the meanings given them unless the specific
30. content indicates otherwise:

31. (a) "Sexual abuse" means the subjection by the child's
32. parents, guardian, or person responsible for the child's care,
33. to any act which constitutes a violation of sections 609.342,
34. 609.343, 609.344, or 609.345, or sections 7 to 11. Sexual abuse
35. also includes any act which involves a minor which constitutes a
36. violation of sections 609.321 to 609.324 or 617.246.

1 (b) "Neglect" means failure by a parent, guardian or other
2 person responsible for a child's care to supply a child with
3 necessary food, clothing, shelter or medical care when
4 reasonably able to do so or failure to protect a child from
5 conditions or actions which imminently and seriously endanger
6 the child's physical or mental health when reasonably able to do
7 so. Nothing in this section shall be construed to mean that a
8 child is neglected solely because the child's parent, guardian
9 or other person responsible for his care in good faith selects
10 and depends upon spiritual means or prayer for treatment or care
11 of disease or remedial care of the child.

12 (c) "Physical abuse" means:

13 (i) Any physical injury inflicted by a parent, guardian or
14 other person responsible for the child's care on a child other
15 than by accidental means; or

16 (ii) Any physical injury that cannot reasonably be
17 explained by the history of injuries provided by a parent,
18 guardian or other person responsible for the child's care.

19 (d) "Report" means any report received by the local welfare
20 agency, police department or county sheriff pursuant to this
21 section.

22 Sec. 13. Minnesota Statutes 1980, Section 629.341,
23 Subdivision 1, is amended to read:

24 Subdivision 1. Notwithstanding the provisions of section
25 629.34 or any other law or rule to the contrary, a peace officer
26 may arrest without a warrant a person ~~(1)~~ anywhere, including at
27 his place of residence, ~~or (2) when the person is threatening to~~
28 ~~return to his place of residence,~~ if the peace officer has
29 probable cause to believe the person within the preceding four
30 hours has assaulted his spouse or other person with whom he
31 resides, although the assault did not take place in the presence
32 of the peace officer. A peace officer may not arrest a person
33 pursuant to this section without first observing recent physical
34 injury to, or impairment of physical condition of the alleged
35 victim.

36 Sec. 14. [EFFECTIVE DATE.]

1 Sections 1 to 13 are effective the day following final
2 enactment and apply to any act which occurs on or after that
3 date.

5-18-81

Legislative Review

The 1984 Legislature passed several pieces of legislation relating to the area of sexual assault. The following is a summary of those laws.

Chapter 588: Criminal Sexual Conduct. Authors: Senator Eric Petty, Representative Connie Levi. This legislation clarifies several issues related to sexual assault. The law:

- amends the definition of "sexual contact" to cover the situation in which a person induces a child under the age of 13 or a mentally defective person to sexually touch the perpetrator without coercion or use of a position of authority;
- redefines coercion to substitute "words or circumstances which cause the complainant to reasonably fear" bodily harm for the word "threat";
- extends criminal sexual conduct in the third and fourth degree to cover 16 and 17 year olds abused by a person in a position of authority such as teachers, ministers, scout leaders, etc. This section applies to crimes committed after August 1984;
- adds intrafamilial sexual abuse and incest as offenses where the victim's prior sexual conduct is inadmissible as evidence except under very limited circumstances;
- eliminates language in the incest statute that precludes charging a first cousin by blood;
- simplifies the existing exception to the Child Competency Statute by allowing children under the age of 10 to describe or relate in language appropriate for a child of that age "any act of sexual contact or penetration performed on or with a child by another." This provision is no longer limited to criminal proceedings, and thus, a child victim would be allowed to testify in juvenile or family court proceedings;
- allows that an out-of-court statement made by a child under age 10 describing sexual abuse be admissible into evidence if certain criteria are met. The criteria include notifying the adverse party in advance, having a pre-trial hearing to determine whether the hearsay is reliable, and a further requirement that either the child testifies in addition to the hearsay or if the child is unavailable (meaning general incompetency) that there is corroborative evidence of the crime.
- clarifies that the maltreatment of minors reporting act did intend to abrogate medical privilege in child abuse cases by stating that "no evidence regarding the child's injuries shall be excluded in any proceeding arising out of the alleged neglect or physical or sexual abuse on the grounds of either physician-patient or husband-wife privilege."
- eliminates privilege for psychologists when it comes to testifying in any proceeding arising out of neglect or physical or sexual abuse of children similar to the provision currently in effect for physicians.
- clarifies that a mandatory minimum three year prison sentence upon conviction of a second sex offense applies to attempts as well as completed sex offenses.

Effective date: varies.

Chapter 573: Domestic Child Abuse Act. Authors: Representative Janet Clark, Senator Eric Petty.

This legislation authorizes the juvenile court to issue an order for protection if there are reasonable grounds to believe that a child is in immediate or present danger of domestic child abuse committed by a family or household member. Family or household member means spouse, former spouses, parents and children, persons related by blood, persons who are residing together or who have resided together in the past or who have a child in common. It permits exclusion of the abusing party from the household and establishes procedures and standards for such cases including orders for support and treatment and arrest for violations. The law also:

- prohibits public inspection of certain court records relating to the identity of criminal sexual conduct victims; and
- expands the definition of sexual abuse in the maltreatment of minors reporting act to include subjection by a person in a position of authority.

Effective date: August 1, 1984 (and applies to acts of domestic child abuse committed on or after that date).

Chapter 496: Statute of Limitations. Authors: Representative Ann Wynia, Senator Eric Petty.

This legislation extends the statute of limitations for criminal sexual conduct offenses from 3 to 7 years if the victim was under the age of 18 years.

Effective: August 1, 1984.

Chapter 631: Task Force on Sexual Exploitation by Therapists and Counselors. Authors: Senator Donna Peterson, Representative Lee Greenfield.

This legislation mandated the Commissioner of Corrections to appoint an 18-member task force, broadly representative of the state, to study the problem of sexual exploitation by counselors and therapists. The task force shall:

- develop a statewide plan to educate clients, potential clients, counselors and therapists, their employers and training institutions, and the general public on the issues surrounding sexual exploitation by counselors and therapists;
- study the need for regulation of all professionals engaging in therapy and counseling and the need to improve rules and procedures of regulatory agencies in addressing complaints involving sexual exploitation by counselors and therapists;
- explore changes in the civil and criminal codes as they relate to sexual exploitation; and
- develop recommendations to the legislature by February 1, 1985.

Chapter 556: Evidence of Past Sexual Conduct. Authors: Senator Donna Peterson, Representative Lee Greenfield.

This legislation bars evidence of a patient's previous sexual conduct from being considered by licensing boards or the hearing examiner in proceedings for license suspension, revocation, or other disciplinary action for unprofessional conduct involving sexual contact with a patient or former patient.

Effective date: April 26, 1984 for proceedings commenced on or after that date.

Chapter 577: Reporting of Maltreatment of Minors. Authors: Representative Dominic Elioff, Senator Eric Petty.

This legislation clarifies the role of law enforcement and local welfare agencies by adding assessment of the case to their

duties. The definition of assessment includes not only gathering the facts (investigation), but also assessing the risk to the child and formulating an ongoing plan to address the situation. The law extends the same immunity from civil or criminal liability previously given only to reporters to persons who participate in assessment. The juvenile court may order schools to comply with requests for interviews on school property and school officials shall not notify the parent that a request to interview a child has been made until after the investigation or assessment has been concluded. This law requires people (including employers) reporting abuse or neglect in licensed facilities to report directly to the licensing agency.

To obtain copies of this legislation, contact: MN State Documents Center, 117 University Avenue, St. Paul, MN 55155, (612) 297-3000. (\$2.93 — prepayment required.)

Legal Developments

State of Minnesota vs. William Odenbrett, III — MN Supreme Court, 5/25/84 CX83148, CI82149.

The Minnesota Supreme Court ruled in May of 1984 that the Child Abuse Reporting Act authorizes the staff of a private health care center to disclose the identity of an individual who admits to sexually abusing a child, and that disclosure is not a violation of the physician-patient medical privilege. The court said that information sheltered by the statutory medical privilege loses its privileged status to the extent that its disclosure is authorized by the Child Abuse Reporting Act. The court did not address the issue of whether there is a right of privacy in communications made in psychotherapy.

State vs. Danielski — MN Court of Appeals 4/24/84 C9-83-1856.

The Minnesota Court of Appeals in April of 1984 held that where the same parental authority that is used to accomplish criminal sexual acts against a child is used to keep the child silent, the statute of limitations does not begin to run until the child is no longer subject to that authority. In this case, a 17 year old told about the sexual abuse as soon as she moved from the family home, but it was more than three years since the last sexual abuse, and the case is now being prosecuted. This case is currently on review by the Minnesota Supreme Court.

State of Florida vs. William Rider — 5/7/84. 3d DCA Case No. 83-821.

In April, the Florida Third District Court of Appeals reversed an earlier court's ruling that the defendant could not be prosecuted for raping his wife. Since Florida has no law that specifically addresses rape of a spouse, the defendant claimed that "common law" exempted him from prosecution.

Judge Jorgenson, writing for the Court of Appeals, stated that "we cannot and will not adopt a common law presumption of consent to an act of violence." This is the first case in which a Court of Appeals has rejected the "common law" argument when the rape occurred while the husband and wife were still living together. The defendant intends to seek review in both the Florida Supreme Court and the United States Supreme Court. For more information about this case, contact Calvin L. Fox, Assistant Attorney General, Dept. of Legal Affairs, Office of the Attorney General, The Capitol, Tallahassee, Florida 32304.

Staten Island, New York

Family Court Judge Daniel Leddy has found that a mother is responsible for a child's emotional state and environment. While previous cases have focused on parental responsibility for child abuse or neglect, they have not addressed situations in which a child's emotional state has been damaged or ignored. Though allegations of sexual abuse were brought, the court determined that there was not enough evidence to prove these charges. However, the judge's ruling stated that "parents are responsible in the first instance for the welfare of their children. They are and must be held to be the first line of defense against injury and impairment." This ruling may redefine parental responsibility in sexual abuse cases. (Summary from *Sexuality Today*, April 30, 1984.)

Media Mix

PUBLICATIONS

Minimizing Abuses of the Imbalance of Power: A Capsule-Educator's Role in Preventing Harm to Children and Youth, MN Department of Education, 1984. A manual on child abuse, neglect and sexual abuse which includes reporting procedures and resources. For more information, contact Department of Education, (612) 296-6104.

Sexual Abuse Prevention: A Study for Teenagers, Marie M. Fortune, 1984. A coursebook for leaders of programs designed to teach adolescents about sexual abuse, specifically geared toward 12-18 year olds. \$3.95. Order from United Church Press, 132 West 31st, New York, NY 10001.

Marital Rape Exemption Packet, National Center on Women and Family Law, 1982. This packet, updated in Nov. 1983, includes information on state marital rape exemption statutes; citations that bar prosecution; myths and facts; specific cases and resources. \$6. Order from the National Center on Women and Family Law, 799 Broadway, Rm. 402, New York, NY 10003.

Preventing Sexual Abuse: Activities and Strategies For Those Working With Children and Adolescents, Carol A. Plumer, 1984. A book designed to help professionals teach children in grades K-6 and 7-12 to prevent sexual abuse. \$19.95 (plus \$1.75 for shipping and handling). Order from Learning Publications, Inc., c/o Book Marketing Services, P.O. Box 238, Dept. S-10, Oshtemo, MI 49077.

Rural Domestic Violence Intervention: A How-To-Guide for Crisis Intervention Services, 1983. Manual for service providers in rural communities who want to develop a crisis intervention project to serve victims of battering and sexual abuse. Free while supply lasts. Order from Crisis Intervention Service, 124 North Federal Ave., Mason City, IA 50401.

FILM

TOUCH, the highly acclaimed play by Illusion Theater Company, is now available as a film. Lindsay Wagner hosts this comprehensive child sexual abuse prevention program. Contact MTI Teleprograms, Inc., 108 Wilmot Road, Deerfield, IL 60015; Toll free: 800-323-5343.

New detention law: Effective Aug 14/6

Sec. 9. Minnesota Statutes 1974, Section 260.171, Subdivision 1, is amended to read:

260.171 Release or detention

Subdivision 1. If a child is taken into custody as provided in section 260.165, the parent, guardian, or custodian of the child shall be notified as soon as possible. Unless there is reason to believe that the child would physically endanger himself or others, not return for a court hearing, not remain in the care or control of the person to whose lawful custody he is released, or that the child's health or welfare would be immediately endangered, the child shall be released to the custody of his parent, guardian, custodian, or other suitable person. That person shall promise to bring the child to the court, if necessary, at the time the court may direct. If the person taking the child into custody believes it desirable he may request the parent, guardian, custodian, or other person designated by the court to sign a written promise to bring the child to court as provided above. The intentional violation of such a promise, whether given orally or in writing, shall be punishable as contempt of court. *Child Abuse*

*at order
- arrests
- runaway
- health of welfare
- treated.
- parole vop.*

The court may require the parent, guardian, custodian or other person to whom the child is released, to post any reasonable bail or bond required by the court which shall be forfeited to the court if the child does not appear as directed. The court may also release the child on his own promise to appear in juvenile court.

Sec. 10. Minnesota Statutes 1974, Section 260.171, Subdivision 2, is amended to read:

Subd. 2. If the child is not released as provided in subdivision 1, the person taking the child into custody shall notify the court as soon as possible of the detention of the child and the reasons for detention. No child may be detained in a detention facility longer than 24 hours, excluding Sundays and holidays, after the taking into custody unless an order for detention, specifying the reason for detention, is signed by the judge or referee. No child may be held longer than 36 hours, excluding Sundays or holidays, after the taking into custody unless a petition has been filed and the judge or referee determines pursuant to section 14 that the child shall remain in detention.

24 hrs.

*when
petition
filed*

*NOT
LOCK-UP
(ON POLICE
HOLDS,
PROTECTIVE
CUSTODY)!*

If a child described in section 15, subdivision 4, is to be detained in a jail up to 48 hours, the judge or referee, in accordance with rules and procedures established by the commissioner of corrections, shall notify the commissioner of the place of the detention and the reasons therefor. The commissioner shall thereupon assist the court in the relocation of the child in an appropriate detention facility within the county or elsewhere in the state, or in determining suitable alternatives. If approved regional juvenile detention facilities exist, the commissioner may direct that the child be detained in the nearest approved regional juvenile detention facility. If the court refers the matter to the prosecuting authority pursuant to section 260.125, notice to the commissioner shall not be required.

Sec. 11. Minnesota Statutes 1974, Section 260.171, is amended by adding a subdivision to read:

Subd. 4. If the person who has taken the child into custody determines that the child should be placed in a detention facility, he shall advise the child and as soon as is possible, the child's parent, guardian, or custodian:

- (a) of the reasons why the child has been taken into custody and why he is being placed in a detention facility; and
- (b) of the location of the detention facility; and
- (c) that the child's parent, guardian, or custodian and attorney may make an initial visit to the detention facility at any time. Subsequent visits by a parent, guardian, or custodian may be made on a reasonable basis during visiting hours and by the child's attorney at reasonable hours; and

*form
for
officers*

custodial "Miranda"

260.171

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(d) that the child may telephone his parents and an attorney from the detention facility immediately after being admitted to the detention facility and thereafter on a reasonable basis to be determined by the director of the facility; and

(e) that the child may not be held at the detention facility longer than 36 hours, excluding Sundays and holidays, unless a petition has been filed within that time and the court orders the child's continued detention.

Sec. 12. Minnesota Statutes 1974, Section 260.171, is amended by adding a subdivision to read:

form for police

Subd. 5. If a child is to be detained, the detention facility where the child is to be placed shall promptly provide for transportation of the child to the facility or secure a written transportation order from the court authorizing transportation by the sheriff or other qualified person. The person who has determined that the child should be detained shall deliver to the court and the supervisor of the detention facility where the child is placed, a signed report, setting forth:

- (a) the time the child was taken into custody; and
- (b) the time the child was delivered for transportation to the detention facility; and
- (c) the reasons why the child was taken into custody; and
- (d) the reasons why the child has been placed in detention; and
- (e) a statement that the child and his parent have received the notification required by subdivision 4 or the reasons why they have not been so notified.

Sec. 13. Minnesota Statutes 1974, Section 260.171, is amended by adding a subdivision to read:

form 4 supervisor

Subd. 6. When a child has been delivered to a detention facility, the supervisor of the facility shall deliver to the court a signed report acknowledging receipt of the child stating the time of the child's arrival. The supervisor of the facility shall ascertain from the report of the person who has taken the child into custody whether the child and his parent, guardian, or custodian have received the notification required by subdivision 4. If the child or his parent, guardian or custodian, or both, have not been so notified, the supervisor of the facility shall immediately make the notification, and shall include in his report to the court a statement that notification has been received or the reasons why it has not.

Sec. 14. Minnesota Statutes 1974, Chapter 260, is amended by adding a section to read:

260.172 Detention hearing

Hing

Subdivision 1. Within 36 hours of a child's being taken into custody, excluding Sundays and holidays, a hearing shall be held to determine whether the child should continue in detention. Unless there is reason to believe that the child would be dangerous to himself or others, not return for a court hearing, not remain in the care or control of the person to whose lawful custody he is released, or that the child's health or welfare would be immediately endangered, the child shall be released to the custody of his parent, guardian, custodian or other suitable person.

every day

Subd. 2. If the court determines that the child should continue in detention, it may order detention continued for eight days, excluding Sundays and holidays, from and including the date of the order. The court shall include in its order the reasons for continued detention and the findings of fact which support these reasons.

signed of order

Subd. 3. Copies of the court's order shall be served upon the parties, including the supervisor of the detention facility, who shall release the child or continue to hold him as the court orders.

Subd. 4. If a child held in detention under a court order issued under subdivision 2 has not been released prior to expiration of the order, an additional

hearing to be held to determine whether the child should continue in detention for eight days, excluding Sundays and holidays, from and including the date of the order. The court shall include in its order the reasons for continued detention and the findings of fact which support these reasons.

Sec. 15. Minnesota Statutes 1974, Chapter 260, is amended by adding a section to read:

260.173 Place of confinement

Subdivision 1. A child who is believed to be delinquent or who is described in subdivision 2 shall be held in a place of confinement which shall be approved by the court.

Subd. 2. A child who is alleged to be delinquent by reason of a crime which is a felony or a misdemeanor of the first degree shall be held in a place of confinement which shall be approved by the court.

Subd. 3. A child who is alleged to be delinquent by reason of a crime which is a misdemeanor of the second degree shall be held in a place of confinement which shall be approved by the court.

Subd. 4. A child who is alleged to be delinquent by reason of a crime which is a misdemeanor of the third degree shall be held in a place of confinement which shall be approved by the court.

Subd. 5. A child who is alleged to be delinquent by reason of a crime which is a misdemeanor of the fourth degree shall be held in a place of confinement which shall be approved by the court.

Subd. 6. A child who is alleged to be delinquent by reason of a crime which is a misdemeanor of the fifth degree shall be held in a place of confinement which shall be approved by the court.

Subd. 7. A child who is alleged to be delinquent by reason of a crime which is a misdemeanor of the sixth degree shall be held in a place of confinement which shall be approved by the court.

Subd. 8. A child who is alleged to be delinquent by reason of a crime which is a misdemeanor of the seventh degree shall be held in a place of confinement which shall be approved by the court.

Subd. 9. A child who is alleged to be delinquent by reason of a crime which is a misdemeanor of the eighth degree shall be held in a place of confinement which shall be approved by the court.

Subd. 10. A child who is alleged to be delinquent by reason of a crime which is a misdemeanor of the ninth degree shall be held in a place of confinement which shall be approved by the court.

Subd. 11. A child who is alleged to be delinquent by reason of a crime which is a misdemeanor of the tenth degree shall be held in a place of confinement which shall be approved by the court.

Subd. 12. A child who is alleged to be delinquent by reason of a crime which is a misdemeanor of the eleventh degree shall be held in a place of confinement which shall be approved by the court.

Subd. 13. A child who is alleged to be delinquent by reason of a crime which is a misdemeanor of the twelfth degree shall be held in a place of confinement which shall be approved by the court.

Subd. 14. A child who is alleged to be delinquent by reason of a crime which is a misdemeanor of the thirteenth degree shall be held in a place of confinement which shall be approved by the court.

Subd. 15. A child who is alleged to be delinquent by reason of a crime which is a misdemeanor of the fourteenth degree shall be held in a place of confinement which shall be approved by the court.

Subd. 16. A child who is alleged to be delinquent by reason of a crime which is a misdemeanor of the fifteenth degree shall be held in a place of confinement which shall be approved by the court.

Subd. 17. A child who is alleged to be delinquent by reason of a crime which is a misdemeanor of the sixteenth degree shall be held in a place of confinement which shall be approved by the court.

Subd. 18. A child who is alleged to be delinquent by reason of a crime which is a misdemeanor of the seventeenth degree shall be held in a place of confinement which shall be approved by the court.

Subd. 19. A child who is alleged to be delinquent by reason of a crime which is a misdemeanor of the eighteenth degree shall be held in a place of confinement which shall be approved by the court.

Subd. 20. A child who is alleged to be delinquent by reason of a crime which is a misdemeanor of the nineteenth degree shall be held in a place of confinement which shall be approved by the court.

Subd. 21. A child who is alleged to be delinquent by reason of a crime which is a misdemeanor of the twentieth degree shall be held in a place of confinement which shall be approved by the court.

hearing to determine under the standards provided by subdivision 1, shall be held to determine whether detention should be continued. If detention is continued thereafter, hearings such as these shall be held within every eight days, excluding Sundays and holidays, of the child's detention.

Sec. 15. Minnesota Statutes 1974, Chapter 260, is amended by adding a section to read:

260.173 Place of temporary care *repealed and care*

Subdivision 1. If a child is taken into custody pursuant to section 260.163, subdivision 1, clause (a) or is found in surroundings or conditions reasonably believed to endanger his health or welfare and the child is not alleged to be delinquent, he may be detained only in a shelter care facility. These children may not be detained in a shelter care facility in which children described under subdivision 4 are detained.

Subd. 2. If a child is taken into custody as one who is:

- (a) alleged to be uncontrolled by his parent, guardian, or other custodian by reason of being wayward or habitually disobedient; or
- (b) alleged to have committed an offense which would not constitute a violation of state law or a local ordinance if he were an adult; or
- (c) reasonably believed to have violated probation, parole, or other field supervision under which he has been placed as a result of behavior described under this subdivision; he may be placed in a shelter care facility.

status offender

Subd. 3. If a child described under subdivision 2 has previously escaped from a shelter care facility, or is from another state and absent from his home for more than 24 hours without the permission of his parent, guardian or other custodian, he may be placed in a secure detention facility.

out of the country

Subd. 4. If a child is taken into custody as one who:

- (a) has allegedly committed an act which would constitute a violation of a state law or a local ordinance if he were an adult; or
- (b) is reasonably believed to have violated the terms of his probation, parole, or other field supervision under which he had been placed as a result of behavior described under clause (a);

crim. delinq. under in state

he may be detained in a shelter care or secure detention facility. If the child cannot be detained in another type of detention facility, a child described in this subdivision may be detained up to 48 hours in a jail, lock-up or other facility used for the confinement of adults who have been charged with or convicted of a crime, in quarters separate from any adult confined in the facility. No child under the age of 14 may be detained in a jail, lock-up or other facility used for the confinement of adults who have been charged with or convicted of a crime.

Subd. 5. In order for a child to be detained at a state correctional institution for juveniles, the commissioner of corrections must first consent thereto, and the county must agree to pay the costs of the child's detention.

Sec. 16. Minnesota Statutes 1974, Section 641.14, is amended to read:

641.14 Jails, how kept

The sheriff of each county, by himself or deputy, shall have charge of the jail, and be responsible for its condition. No female prisoner shall be kept in the same room with a male prisoner, and no minor under 18 years shall be kept in the same room with adult prisoners. No insane prisoner shall be kept in the same room with any other prisoner unless that person is detailed as a nurse; and, so far as the construction of the jail will permit, strict separation of prisoners shall be maintained. No person awaiting trial shall be kept in a room with any other prisoner.

Sec. 17. Appropriations. The sum of \$10,000 is appropriated to the corrections ombudsman from the general fund for the purposes of this act.

R E P O R T I N G O F C H I L D ' A B U S E

In accordance with Minnesota Statute number 626.555 (Reporting of Maltreatment of Minors), child abuse shall pertain to both physical and sexual abuse of children by the child's parent, guardian, or person responsible for the child's care. The following form is recommended:

PLEASE FORWARD THIS REPORT TO THE LOCAL COUNTY WELFARE DEPARTMENT AND A COPY TO THE LOCAL SHERIFF OR POLICE DEPARTMENT.

Sgt. Carolen Bailey
St. Paul Police Department
101 East 10th Street
St. Paul, Minnesota 55101
291-1111 ext. 338

Mr. Thomas Hess
Child Protection Intake
Ramsey County Welfare Department
160 East Kellogg Street
St. Paul, Minnesota 55101
298-5655

I. IDENTIFYING INFORMATION

Name: _____ (Alias, if any) _____

Birthdate: _____ A# _____

Parent's Name: _____

Address: _____

Home Telephone Number: _____

Date, Time and Place of Evaluation: _____

II. PHYSICAL FINDINGS

Description of injury - include severity. Estimate when the injury occurred, if possible. This may be essential to the subsequent investigation.

III. HISTORY (A very careful history should be documented in the exact words of the historian)

Historian (relationship to child)

How and when the injury occurred

Past significant history of unexplained or repeated injury (abuse)

IV. CONSULTATIVE REPORTS

Photographs

X-rays

Blood tests

V.

SUMMARY

Include any statement or conclusion the physician can make regarding the etiology of the injury. Are there significant discrepancies in the history as compared to the physical findings? Please consider the seriousness of the injury - life threatening? Include the physicians recommendations. What are the risks if the child is returned home?

Physician's Signature
Office Address: _____

Phone: _____

Child Protection Referral Outcome
(attach to referral letter copy)

Name of mother: _____ A# or B.D.: _____

Address: _____

Telephone #: _____

Name of father:
(or man) _____

Other caretaker: _____

Name(s) of child(ren): _____ A# or B.D.: _____

_____ A# or B.D.: _____

_____ A# or B.D.: _____

_____ A# or B.D.: _____

Date Referred: _____

Outcome of protection referral: _____

Other services instituted: _____

Signature of Worker _____

Date of completing
this form: _____

Update information: _____

Signature of Worker _____

1. Discrepancy bet. injury + history or cause of injury as supplied by parents.
Inconsistent account
2. Time interval bet. injury + seeking med. care.
Notice - observe
3. Parents who appear suspicious, demanding, discipline-oriented.
4. Injuries to long-bones
Used as handles
5. Obvious bruising.

RESPONSIBILITIES OF THE EMERGENCY DEPARTMENT
IN CASES OF
SUSPECTED CHILD ABUSE AND/OR NEGLECT

As most child abuse and neglect cases are initially seen by the emergency department staff, it is very important that physicians, nurses and other emergency department personnel be aware of the possibility of child abuse.

1. Child abuse should be suspected when there is a discrepancy between the injury and the history of how it occurred. Examples of this discrepancy may be:
 - a. Inappropriate injury or degree of injury versus history given.
 - b. Conflicting histories of how injury occurred.
 - c. Vague histories or denial of any trauma in the face of obvious injury.
 - d. Disproportionate amount of time lapse between time of injury and time medical treatment is sought.
 - e. Insistance by the parent that injury is very severe when no injury exists.
 - f. Bizarre or inappropriate history.
2. Child abuse should be suspected when the age of child is inconsistent with the kind of injury e.g., fractured femur in a three month old child.
3. Child abuse should be suspected when there are multiple injuries at the same time or a history of many previous injuries.
4. Child abuse should be suspected when there are old injuries which have not been treated regardless of reason for appearances in ED.
5. Child abuse should be suspected when there are unexplained CNS findings, especially in a child under one year of age.
6. Child abuse should be suspected in any child who appears malnourished or neglected.

When child abuse or neglect is suspected, the child should be admitted. If admission is refused by parent or caretaker, then the juvenile judge should be contacted for permission to treat. A police holder may be obtained, in consultation with social worker involved with family, should the situation warrant this, or should parents threaten to remove child from the premises. The emergency department physician, nurse or other staff personnel should notify:

1. The attending physician.
2. The chairman of the Child Protection Team.
3. The social work department (If the social worker is not available then emergency department staff can notify the children's service agency in the community in which the patient resides.)

ST. PAUL-RAMSEY MEDICAL CENTER
CHILD ABUSE REPORT

PATIENT'S NAME: _____

BIRTHDATE: _____ A# _____

NAME OF PARENT OR GUARDIAN: _____

ADDRESS: _____

HOME PHONE NUMBER: _____

DATE, TIME AND PLACE OF EVALUATION: _____

In accordance with Minnesota Statute number 626.555 (Reporting of Maltreatment of Minors), child abuse shall pertain to both physical and sexual abuse of children by the child's parent, guardian, or person responsible for the child's care. The following for is recommended:

HISTORY (Use historian's words if possible)

Historian _____ Relationship to child _____

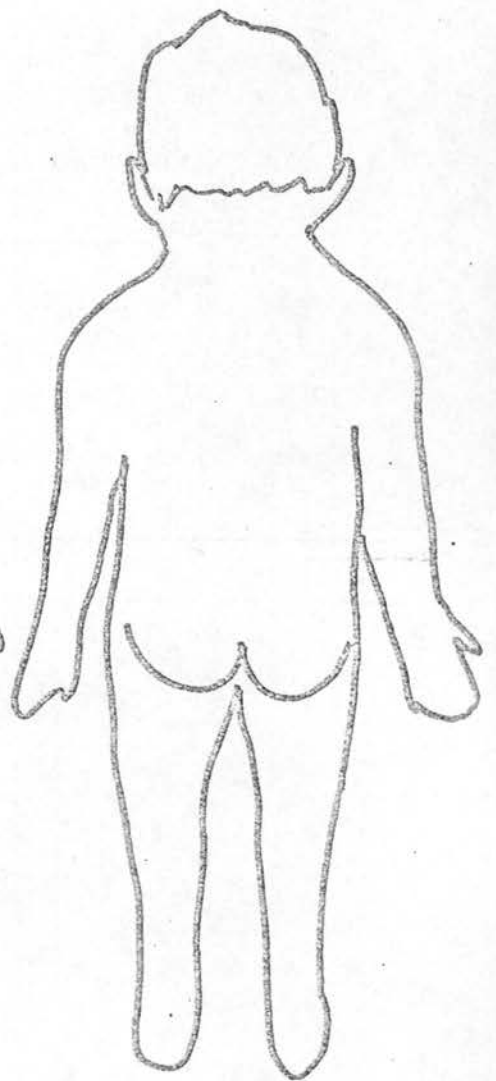
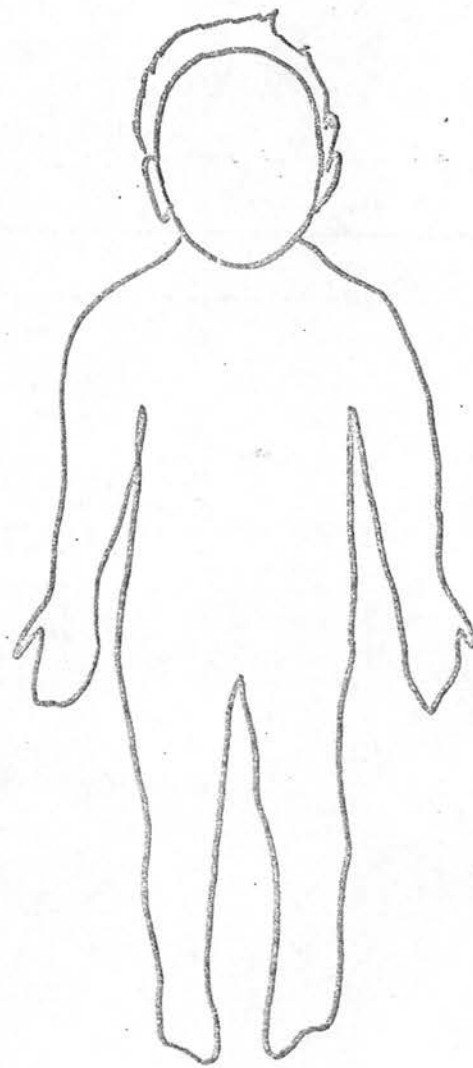
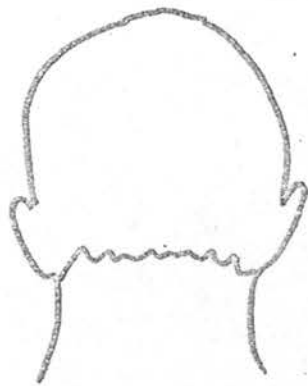
Address _____ Phone _____

How and When Injury Occurred:

Past History: (unexplained or repeated injury)

PHYSICAL (Describe injuries, severity, estimate of time of occurrence)

Please Draw Injuries :



LIST TESTS DONE:

X-ray _____

Blood Test _____

Photograph _____

Other: (Describe) _____

SUMMARY (Please answer all the following;)

Can you make a conclusion regarding the etiology of the injury?

If yes, explain _____

Are there discrepancies between history and physical?

If yes, explain _____

	yes	no
Are the injuries serious?	<input type="checkbox"/>	<input type="checkbox"/>
Are the injuries life threatening?	<input type="checkbox"/>	<input type="checkbox"/>
Is there a risk in sending the child home?	<input type="checkbox"/>	<input type="checkbox"/>

Diagnosis _____

	yes	no	suspected
In your opinion is this child abuse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Recommendations or other comments _____

Physician's Signature

Physician's Name (Printed)

Office Address _____

Phone _____ Ext _____

History:

Person Reported To Have Abused the Child

Name _____

Relationship to child _____

Address _____

Where Did Child Go Following Exam:

Name _____ Phone _____

Address _____ Relationship to child _____

Were police called? yes no

If yes, which police department _____

Was welfare called?

If yes, name of contact _____

Was caretaker notified
of abuse referral?

Social Worker's Signature

Social Worker's Name (Printed)

Address _____

Phone _____ Ext _____

History - R.N. (if different from above)

R.N. Signature

R.N. Name (Printed)

1. Shaking injury - marks on chest or upper arms
"serious" (finger-tip type)

Brain blood vessels ruptured (semi-comatose)

Calm, depressed parents who get upset w/ crying.

Obvious abnormality at birth if result of delivery.
Does not occur spontaneously.

2. Burns - 9% of child abuse

16% of burns are child abuse. Be suspicious.
At least 1 in 10 burns are c.a.

#1. cigarette

2. hot knife burning fore-skin (punish masturbation)

3. dunking burn for poor toilet training.

Typically straight line of exposure.

4. Most difficult is splashing.

3. Failure to Thrive -

Parents say receive sufficient food and fail to gain.
For judgement, need very good measurements.

10% have evidence of physical abuse.

"The logic in this room is a rare commodity"
(ex. family hasn't gotten sterile in last 5 days after birth)

September 21, 1979

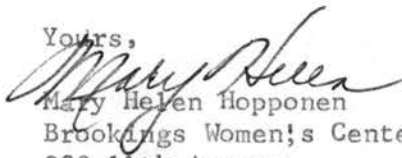
Dear Carolen:

We are just delighted that you will be coming to share in our conference in Brookings on child abuse October 19 & 20. I have been a part of a group two times when you were a resource person and am a very enthusiastic fan. Brookings has a very low level of acceptance of the whole issue of child abuse, particularly sexual abuse, among professionals (the states' attorney said to me not long ago when I was trying to get him to help me with a child of 12 who was refusing to go home--"You aren't going to believe a 12 year old child, are you?"). Our medical community is sure they know all they need to know about the issue although they have missed responding to several children I have worked with. Our probation officers and our judge leave something to be desired--the judge does not even want children taken into protective custody without a court order from him although the law is clear in stating that police officers and probation officers can do it and contact him after the act.

We are hoping that some of us who are operating informally (before and separate from the Interagency Child Abuse team--not in opposition to it but at a different level and out of a different need) can arrange some time with you. We would like to have several of our police officers join us, maybe somewhere after the banquet on Friday, for some words of good experience and wisdom from your perspective. (I should say that in my very odd involvement with the whole issue of sexual abuse which is coming to it through direct contact with the children the local police have been the most dependable supporter/helpers in working out alternatives.)

We will be looking forward to having you here--and will hope for some extra time out of the busy schedule.

Yours,


Mary Helen Hopponen
Brookings Women's Center
802 11th Avenue
Brookings, S.D. 57006

should it hurt the child physically or emotionally. This is simply a way of saying, "You can't do that."

USE PUNISHMENT CAUTIOUSLY.

Your rule might be, "Is this punishment educational, or just a way for me to let off steam?" Let off steam some other way, and then decide what action is needed to correct your child's behavior.

But if you ever do think you're in a situation you can't handle, don't hesitate to get help. Maybe you need to talk to a spouse or friend or neighbor. Parents Anonymous, an organization of parents who have faced the same problems you're having, offers telephone assistance and regular meetings. Check your phone book to see if there is a local chapter. In a crisis, call the Parents Anonymous toll-free hotline: 1-800-421-0353. Or call a local social service agency or county welfare department if you want professional counselling. If the agency you call doesn't offer the kind of service you want, ask to be referred somewhere else. Help is not far away.

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department
of public
welfare
state of
minnesota



DPW-2416



PLAIN TALK about how to deal with an angry child



Anger -- it's a fact of life.

Everybody gets angry. You do, and so does your child. But figuring out what to do with that anger is tough. It makes parenting one of the hardest jobs in the world.

What do you do with an angry child? Letting your anger or your child's get out of hand is dangerous. But so is hiding it. Hidden anger only smoulders until it explodes later "for no good reason."

The first thing you can do is get control over your own feelings. It will help if you think of your job at that moment as a teaching job. Little Jimmy or Susy probably doesn't understand the strong feelings building up inside, obviously doesn't know what to do with them, and may well be frightened at the sense of going out of control.

In fact, the anger of a child is often an easily available substitute for some other feeling the child can't identify. A child will act angrily when the real problem is deeper and more frightening: a feeling of failure, low self-worth, loneliness, boredom, fear, confusion or even sadness.

If you can help the child discover what feeling lies under the anger, and talk with him or her about it, the anger is likely to lessen or even disappear.

Remember that anger is a natural human feeling. Your child has a right to feel and express anger. So do you. Just as everyone has a right to feel hunger, happiness or sadness.

But anger is different from aggression. Aggression is an attempt to hurt someone or destroy something. It infringes on the rights of others. This distinction may help you to react appropriately to the many kinds of upsetting things an angry child may do.

Here are some suggestions for dealing with an angry child. Some of them are designed to help the child avoid unnecessarily frustrating situations. Some are on-the-spot actions you can take when you see your child is having a problem.

CATCH YOUR CHILD BEING GOOD.

Every day find lots of ways to praise your child's good behavior--and you'll start seeing more of it. Some examples: "I really liked it that you came in for dinner today without being reminded"; "Thanks for hanging up your clothes after school. I know you were in a hurry to get out to play"; "You sure were patient when I was on the phone"; "Thanks for telling the truth about what really happened."

IGNORE INAPPROPRIATE BEHAVIOR THAT CAN BE TOLERATED.

Ignoring it is one way of showing the child that the behavior is inappropriate. This doesn't mean you should ignore the child, just the behavior.

MAKE IT EASY FOR YOUR CHILD TO BE GOOD.

Give him or her plenty of opportunity for physical exercise to let off extra energy. Plan surroundings so that unnecessary temptations aren't there. Make sure the child isn't too "crowded in" by cramped physical space, or overly confining rules and regulations.

USE CLOSENESS AND TOUCHING.

Sometimes a sudden hug or show of affection will help an angry child regain control. You can move physically closer to a child to calm him or her, and help the child curb the angry impulse.

In order to stay within limits, a child needs a clear idea of what those limits are, and needs to be free to operate within them.

SAY "NO!"

Understanding a situation can help a child understand the cause of the anger, and begin to calm down. Your explanation can include telling the child how you feel, and asking for consideration. Example: "Playing your drum usually doesn't bother me, but today I have a headache. Could you please do something else?"

EXPLAIN SITUATIONS.

If your Jimmy is convinced he is a "bad boy," then you can be sure he will act like one. He needs to know he is a valued and valuable person, that he has strengths as well as weaknesses, that he is able to reach his goals, that his angry feelings don't make him a bad person.

HELP YOUR CHILD BUILD A GOOD SELF-IMAGE.

Talking is an acceptable steam valve, and helps the child to avoid "blowing up." If Susy is free to tell her little brother, "I don't feel like sharing just now," and if that desire is respected, chances are she isn't going to slug him the minute you turn your back. Teach her to put the angry feelings into words instead of fists.

TEACH YOUR CHILD TO EXPRESS ANGER IN WORDS.

If you hit Susy because she hit her baby brother, will she believe you when you say it's wrong to hit people?

BE A GOOD MODEL.

Sometimes physical restraint is necessary to stop a child from hurting himself or herself, or others. This also will help the child save face. Physical restraint is not a means of punishment or angry behavior by you, or a chance for other children to ridicule your child. Neither

USE PHYSICAL RESTRAINT -- CAREFULLY.

By C. Bailey

INTERVIEWING THE CHILD

It is advisable that only one person questions the child, and, unless there is a specific reason, no one else should be present. In the case of the adolescent or teen-aged victim, the presence of a parent can seriously curtail the information received. With a very young child, the presence of another person that is close to the child may be just the reassurance the child needs to talk freely, but consider this carefully. Ask the child in private how she feels about this, if it is feasible. If the parents are present, the child can feel more comfortable requesting privacy if a comment is made by the officer, such as "Most teen-agers are embarrassed with their parents present because they care about them, do not want to subject them to this, and would rather be alone", which is true. There are some definite disadvantages to having the mother present during questioning of the child in an incest case, including inhibiting what the child tells. However, if the child is under twelve years old, if the mother's attitude at this time supports the child, and if the mother's visible emotional reactions do not disturb the child, there can be some value in having the mother present with the very young child. As new information unfolds spontaneously, the mother is again forced to face the reality and the extent of the problem. She may verbally help the child to feel less guilty, etc. at this time, even though she may later turn against her. The mother may also provide corroboration as she learns details of the offense. Keep in mind, however, that the mother can interfere with the questioning. The mother often is very passive until she learns about the incest, then becomes defensive because of her guilt in failing to protect her child and frequently from her actual negligence. Similarly, if there is someone present who quite obviously is disturbing or interfering with questioning, see what you can do to separate them (example).

Try to avoid taking notes if possible because this ^{disturbs} distracts a small child and you lose contact with them. A tape recorder allows freedom to concentrate attention on the child while still getting accurate quotes, which are even more essential with a young child. Since recorders can frighten small children, the recorder can be hidden until the questioning is finished, then show the child they have been recorded as though it were a game, playing the child's first few words and telling them how well they've done. This recording can later be played to the child prior to trial to refresh the memory.

Before getting in to pertinent questions, establish a relationship with the child and let them know you are their friend (Ex. showing jail). If you don't relax the child, you won't get the information. The officer must consider the emotions of the child. Put the child at ease through pleasant, friendly conversation that shows you are interested in the child as a person and that there is no reason to be afraid.

The child's short attention span sets a time limit on questioning. The interviewer must move quickly without appearing to do so.

Explain to the child what you are going to do ("I am going to ask you some questions like they do at school. If you don't understand the question, ask me about it."). Tell her what a steno is if you are calling one in (ex. shorthand). It is much less frightening if it's predictable.

Approach the child slowly, patiently, and calmly, and you may find you have this same effect on others. Keep questions as short as possible, and wait for answers. Some children take a little longer to answer. Use body language to hold their attention and encourage them to talk, such as leaning over to be on their same level.

If you are informal and natural, the child will more likely be at ease. Similarly, if you feel embarrassed talking about sex, the child will sense this and feel embarrassed. Acknowledge that she might feel embarrassed ("I know some of these questions might be hard to talk about, but I'll try to make it as easy as possible for you."). Reinforce them, and help them to feel they are doing well, both during and after the questioning ("I couldn't catch you on any questions!"). Then they feel they have accomplished something, and they will be eager to cooperate with you in the future, if it should become necessary (ex. mother apprehensive re. court and child anticipating it).

Allow the child to give her account without interrupting if she talks spontaneously. Be patient and allow the child to give information willingly and naturally. Encourage the child to talk, but be careful not to suggest things. It is important to get the answers from the child, but it is equally important that you are not telling her what happened. Use open-ended questions and avoid yes and no answers. (Example). Children especially are very suggestible but so are many adults. Don't jump to conclusions as to what happened. I've been very surprised at answers many times. Don't put words in their mouth. Use their own words (Ex. "penetration"). Use language that is appropriate for the age, sex, and intelligence of the victim. Most children are not clear as to what sodomy, connilingus, anus, rectum, etc. mean. Don't say, "Did he perform an unnatural act on you?" They may think an unnatural act is kissing on the neck or jumping off a bridge! Don't use vague terms, such as "private parts"! I consider my armpit as private. It can be tough for a child to describe her experience in what they think are "proper words". They know they don't say asshole to a cop, but the only word they may know for intercourse might be "balling". So what have they got left? (demonstrate embarrassment, "...you know"). Help them to feel comfortable giving their account in their own words, and don't react to unusual terms. Accept and clarify them if it is necessary (ex. flashlight). Last week I talked to a nine-year old girl that had been raped, and every time she used the word "weiner", her mother shuttered "ichhh", and the child cringed. I ignored the mother and repeated a question using her term "weiner" so that the child and mother got the point that it was okay. Sometimes you might want to be more direct. "There's nothing wrong with that word. Lots of people use it. I've heard it lots of times."

Encourage the child to talk freely and don't try to redefine the situation as being either more or less alarming than she sees it. The best way to get a person to cry is what? Say, "Don't cry!" Children especially are responsive to others reactions (example). Avoid trigger words, such as "incest", "rape", etc., which may alarm the child.

In questioning the child, you want to accomplish two basic purposes:

- 1) Analyze the child to determine her credibility as a witness. What does the child actually know and will the child qualify as a witness = accuracy and ability. The competency of a witness is determined by their ability to differentiate truth from fiction. Generally, under seven years no, 7-10 years maybe, 10 + probably. The officer can assist the county attorney through the statement with such questions as, "Can you make up a lie for me so I'll know you know what a lie is?" Then, "Have you told me any lies?" (example)
- 2) Obtain the basic elements of the crime. In the case of small children, even the required time and place of the offense can become a problem. If possible, relate the offense to other events that can be checked. Determine the most recent offense, the first contact and generally the extent of the offenses.

The best basic rule in obtaining information is to get a step-by-step chronologic account of what happened. With a small child, it is not necessary to go in to a lengthy discussion about sex. If the crime has been established and the child has demonstrated to be credible, this should be sufficient.

After all this, there is one ray of hope in the incest case. At least, the child knows who the suspect is!

There has been a tendency to over-react to incest as a nameless sexual evil with disasterous effects. It is important to response to the victim of incest with warmth, objectivity, and acceptance of the child, so that the child is not bound up in sexual fears and the entire process which follows is not demoralizing and ineffective. We can help the child recognize the fact that sex is simply a part of life, one of the ways in which people relate to one another. It has the potential for either good or bad. If we are irrational about sex, it is not because sex is an irrational force but because we choose to be irrational. We dare not choose to be irrational at a time when a child comes to us in serious need of common sense and good judgement.

Carolyn Bailey

Although there has been a large increase in reports of child abuse, there has remained considerable confusion among patrol officers in dealing with these cases. Many officers appear to lack even basic information which affects their decisions in these cases.

It may be helpful for supervisors to ask their officers to call them in when receiving these cases or to contact our office, particularly since these calls may not easily be identified on the radio when the squads are sent to the scenes (Ex. "See a lady at S.P.R.H.").

Areas where questions have arisen include:

- ✓ 1. Although squads customarily do not take second-person reports, second-person reports not only should be taken but are required by law. (Explain mandatory reporting law)
2. Child abuse reports do NOT go to Juvenile Division but are assigned to Crimes Against Persons Unit unless the offender is a juvenile. In most cases, the offenders are adult parents. Neglect reports, where no crime is evident, are processed through Juvenile Division.
- ✓ 3. It is imperative that our unit follows up immediately on these reports, particularly on incest cases. Families tend to interfere when they are aware a report has been made, evidence is destroyed, the child may not be safe, calls immediately are made to our unit, etc. Expedite the report process as quickly as possible. There have been 2-3 day delays in our unit receiving these reports.
4. Officers are frequently asked by other professionals (S.P.R.H., R.C.W.D., etc.) to take the child in to protective custody. (Explain the law and process on protective holds).
- ✓ 5. Reports and evidence are often utilized in Juvenile Court, even if Criminal Prosecution may not be feasible. It is our responsibility to protect persons and property, including assuring that these children are safe. This may be accomplished through Juvenile Court. Evidence for Juvenile Court is not as restrictive as in Criminal Court and can include a broader range of information than what might be collected for prosecution purposes (Ex. condition of the home, attitude of parents, etc.). Also, Minnesota Supreme Court has admitted introduction as evidence in Criminal Court on the "Battered Child Syndrome": Loss case (to be explained later), so such information when available should be included in reports.

(over)

- ✓ 6. Children who have been physically or sexually abused are often frightened and easily intimidated.
- A. Information is most easily obtained from these children when they are questioned in a private, quiet room or squad without parents or more than one officer present. Avoid several uniformed officers towering over and interrogating them. Help them to be aware that you are there to help them and that it is our responsibility to assure that they are safe. Other professionals, if they are present, can assist with this.
 - B. These children should not be expected to decide about prosecution. This can be explained and discussed with them later when they feel safe and supported. Avoid spooking victims by talking about court, jail, etc.
 - C. Incest reports are rarely received within approximately 24 hours after last offense, so that sperm and other immediate evidence is not usually available. Therefore, it is not necessary nor advisable to obtain medical exams at the Emergency Room of the hospital. It is more effective to have the child examined later by Pediatrics, Children's Hospital or etc. when the crisis is over, the child is prepared, and those who do the examination are more aware of procedures, etc.

7. *Intrafamilial Sexual Abuse Law - applies to 16-17yr olds.*
New laws - officers may now be allowed to testify instead of a child under 10 yrs.
Be prepared to give account of what child said.

Physical Abuse of Children
by Carol Bailey

Most people, including police officers, find it difficult to believe that parents actually sexually assault, injure and kill their own children, but vastly increasing reports of child abuse emphasize the reality of the problem. Children are commonly seen with extensive bruising, severe burns, permanent mutilations, and other evidence of deliberate attack. Child abuse may be broadly defined as inflicted physical injury or sexual mal-treatment of a child by a parent, guardian or someone responsible for the child's care.

Although child abuse had undoubtedly been present throughout history, it has been the focus of increasing recognition and concern since 1962, when Drs. C. Kempe and Ray Helfer defined the "Battered Child Syndrome". Today all states have laws requiring the reporting of suspected cases of child abuse and have penalties for failure to report. Many states do not define a specific crime of child abuse, and existing criminal statutes most often directed toward adult victims are not always applicable nor adequate. Available statistics are often incomplete because such offenses may be classified as murder, assault, rape, sodomy, etc. and are not specifically identified as child abuse. The statistical figures remind us that these are real children, who are crying, hurting and listening in the night for footsteps of a parent that may burst into the bedroom and cause pain.

Many agencies, including police, schools, social services, medical personnel and field nursing, attorneys, courts, mental health, etc., become involved in child abuse, and it requires the teamwork of all of these to most effectively deal with the problem and assure the protection of children. This section will not explore the benefits of professionals coordinating information and services, but there are many multi-disciplined Child Abuse Teams now functioning successfully that have such information available.

see
Team

Police officers in the past have frequently shied away from these stressful and demanding cases, arguing that it is a problem for social services. Many professionals involved in the treatment of these offenders are becoming aware that the effectiveness and outcome of treatment is greatly increased if facilitated through the criminal court process, and they are increasingly seeking police involvement. Assaults, both sexual and physical, are in fact a crime, and the children in our community are entitled to the same protections under the criminal laws as are adults. The traditional function of the police is the protection of persons and property. In addition, police are uniquely capable of providing emergency and 24 hour service. Reports of suspected child abuse require highly skilled investigations which develop uncontaminated, admissible evidence. No longer can the police turn away nor argue that this is someone else's problem.

The investigation of physical abuse of children is generally conducted differently than those cases of sexual abuse, even though there is frequently physical abuse involved in complaints of sexual abuse. To avoid confusion, physical and sexual abuse investigations will be handled separately.

Laws: Mandatory Reporting ; police hold* ; criminal statutes.*

Identification of Physical Abuse

Unlike most crimes reported to police, the investigator in a suspected case of child abuse may first be confronted with determining if a crime has actually been committed or if injuries, for example, are accidental. A persistent problem is differentiating between wilful and accidental causation. Since it is generally accepted that many cases of child abuse go undetected, identification becomes imperative. Cases often are undetected because:

- Many abused children are not old enough to talk. The majority of battered children are younger than four years of age, although abuse occurs at any age. A child may not yet be able to talk or may be afraid to tell what happened because of fear of reprisal.

- Parents who beat their children can be very deceptive. They may be disarmingly cooperative, over-protective, neat and orderly. They often have opportunities to prepare their explanations and can be excellent liars.
- Children do accidentally injure themselves in many different ways and are often found with bruises, skinned knees, cut fingers, etc. Parents can often think of reasonable explanations for injuries, and no suspicion whatsoever might be aroused.
- Abuse usually takes place in the absence of witnesses who might report or testify. A pre-school child may have limited contacts outside the home, so an injury might be concealed unless medical personnel or police are called for assistance.

These reasons not only contribute to the lack of detection of child abuse but to the difficulty in prosecuting these cases.

The alert police officer is in an excellent position to recognize such assaults, through community contacts as well as during investigations. Particular attention should be made to the possibility of child abuse when any of the following are present:

- Marked discrepancy existing between the nature of the injury and the alleged cause of the injury as supplied by the parents. A few parents offer no explanation for the injury, but most parents offer some excuse, such as the child fell, usually off the sofa or down the stairs, or the child was hit by another child, often younger. If the given cause of the injury seems unusual or does not satisfactorily explain it, check further for inconsistencies and visit the scene. It is worthy to note that medical studies have shown that very few children sustain serious, life-threatening injuries from their falls and that investigators should be extremely suspicious of child abuse if a child has a serious head injury, with or without a skull fracture, when the cause of the injury is reported to be a fall from a bed, sofa, or crib.¹

1. "Pediatrics", Vol. 60, No. 4.

- 5.
- A notable time interval between the occurrence of the injury and the time the parents seek necessary medical care. For example, would most parents rush the child to the hospital immediately rather than wait several hours? A lengthy time lapse may be suspicious, but immediate action may be insignificant. Don't let this deceive you, because many parents, after they have severely beaten their children, are terrified, horror-stricken, panicky, and their first thought is to get medical help for their children.
 - * • Fractures in children under four years of age, especially if the child cannot yet crawl. The ease with which a child can be seized by the arms and legs as "handles" causes common injuries to the long bones.
 - Visible injuries to the skin, including:
 - • Bruises. Bruises on the jaw and neck may be of a "finger-tip" character, suggesting gripping. Bruising of the cheeks and sides of the head may suggest blows or slaps with the open hand or fist. Where bruises are more localized or a severe injury to the skull or brain results, they may be consistent with blows against hard objects, such as furniture. The presence of a laceration of the inner upper lip with some tearing, including torn crenulins, is a striking feature which may result from a blow or efforts to silence a child. It is difficult to accurately age bruises because shock varies. Bruises normally fade and disappear in about two weeks, but scars may show after weeks or months. For this reason, it is important to describe completely the injuries in a report, including the coloring, exact location, etc. Photographs are essential before the injury heals.
 - • Burns. It has been estimated that approximately 16% of burns on children are the result of abuse. Inflicted burns result from cigarettes, stoves, radiators, heated instruments, boiling liquids, etc. Dunking burns are common as punishment for poor toilet training, and typically show a straight line of exposure (see photo). The most difficult to identify appears to be those resulting from splashing. Burns to the hands, buttocks, and soles of the feet are common. Burns to

the top of the hands, rather than the palms, are particularly suspicious.

- Marks on the skin which are strongly indicative of the causes. These might include scrape marks from ropes or objects used to restrain children, most often found on the wrists, neck, and ankles. Bite marks and belt buckles may show clear imprints on the skin. Examine the injuries carefully, always considering the possible instruments used. Many causes become obvious.
- Ear injuries are often over-looked and are suspicious. Examine the external ears for evidence of trauma by pinching, twisting, and pulling.
- Shaking injuries. "Finger-tip" type marks on the chest or upper arms may be indicative of shaking. These injuries are potentially very serious and are believed to be a significant cause of mental retardation (brain striking the skull). Blood vessels in the brain may be ruptured as a result of shaking, and the child may be semi-comatose. These injuries do not occur spontaneously. If the injury is the result of delivery, there is usually obvious abnormality at birth.
- Repetition of injury is probably one of the most significant indications of child abuse. A history of accidents or injuries which is not consistent with the age of the child may be strong evidence in court. Include all information obtained which shows the child had previous similar "accidents". Even if this may not have been a deliberate injury, the fact that the incident repeated itself causing another injury may indicate neglect in that the parents did not correct the problem.
- Failure to thrive. This is a medical diagnosis, which denotes severe developmental lags that may have multiple causes. This is often identified within the first two years of life. If this is due to insufficient caloric intake, it is life threatening. The most extreme example is the infant who is starved to death. In such cases the parents often say the child receives sufficient food, but the child continues to fail to gain weight. Failure to

thrive is associated with parental disinterest or rejection of the child. To make this judgement, medical personnel must use very good measurements (two percentiles or more).

* Parents who: *(do want/need their chn.)*

- .. are evasive or contradict themselves regarding circumstances under which the injury occurred. Careful coordination with all medical personnel, etc. may disclose inconsistencies in statements given by parents. They may not volunteer information.
- .. are obviously demanding, anxious, and discipline-oriented. Battering parents commonly have an unduely strong sense of demand in performance by their children, and as a result tend to discipline too early. An example of this might be the parent who says his four-month old "got out of hand" or the parent who expects his six-month old to be toilet trained.
- .. complain agitatingly of difficulties with their children, especially about excessive crying (and inability to cope with this). They may also express fearfulness of being alone with their child and appear anxious when anyone watches them care for their child, especially during feeding.
- .. show lack of empathy for the child. They may not seem to know or care what their child needs or wants, and they seem to resent it when the concern of others focuses on the child rather than on them. They may respond favorably to the investigator who sympathizes with their problems rather than emphasizing the child's injuries. They have become preoccupied with themselves and have little perception of how the child feels. They may be using the child to serve their own needs, and the child, learning to avoid abuse, begins to take care of the parent. Close observation may reveal the parent-child role reversal even between the very young child.
- .. reject, criticize or blame their child. Although the parents may now want their child to fulfill their own needs, the child may have been the result of an unwanted pregnancy which aggravates later resentment of the child. After the child's birth, the parent may begin to attribute negative characteristics to the child and become angry at the child.

- seldom touch or look at the child.
 - fear the outside world, distrust those in authority, and do not seek help. They may be socially isolated and lonely.
 - were beaten themselves as children. An argument given by parents that they would not do such a thing because they themselves were subjected to this so know what it feels like is cause for suspicion. Through repeated disappointments and failures, the parent develops a low self-image and feels worthless.
 - show little or no concern about the injury, treatment or prognosis, do not inquire about the child's discharge date, and tend not to visit the child in the hospital.
 - exhibit violent feelings and behavior.
- Crisis situations. Events which a parent cannot handle at a particular time may provoke potential abuse. These frustrations can cause uncontrolled actions against the child. The crisis may seem minor except to the parent who is already overwhelmed. The parent may demonstrate an inability to handle stress. Economic problems may aggravate a stressful situation. A child who has special problems, such as retardation, learning disability or hyperactivity may increase the stress because this child is more difficult to deal with. If a parent is cooped up day after day with the children and has no way of getting away from the home and children, even a minor incident can become a crisis.

Investigation of Physical Abuse

+ S.W.

No
LOCK-UP!

The police officer's first responsibility in investigating child abuse is the protection of the child. If the child's safety is endangered, the child should be removed from the home. The officer should use discretion in keeping the effects of removal from being detrimental to the child. Except with infants, removal is very frightening to a child and should not occur without a court order unless the child's immediate protection is necessary. In making the decision about removal, consider the ^①age of the child (how they can care for and protect themselves), ^②the extent of the injuries and any previous known injuries, ^③any bizarre or unusual punishment which indicates extreme personal problems or disturbances, and the ^④child's own fear and attitude. When the situation is sufficiently dangerous to necessitate the removal of one child, brothers and sisters may also be assumed to be in comparable danger, unless there is clear evidence otherwise.

If immediate medical attention is required, the officer should transport the child to an emergency hospital or assure that medical care is received. Medical examination is also helpful in verifying and identifying injuries even when medical treatment may not be required. The officer should observe the physical condition of the child and describe the injuries in detail in reports.

Visible injuries should be photographed as soon as possible. Some injuries fade or disappear quickly, and this evidence should not be lost due to delay. Photographs are helpful in illustrating the extent of injuries to the court as well as possibly demonstrating how the injury may have occurred, particularly when the history given by the parent is inconsistent with the injury. Photographs have posed few problems legally as long as the photographer and child have a legal basis for being in the place where the photos are taken (for example, a child who is in protective custody vs. a child at home where parents refuse admission). The admissibility of the photographs in court is a matter to be handled by the attorneys, and the arguments by the defense are primarily that the photos will

bias the jury. Generally if the photos are instructive to the jury to understand the nature and extent of injuries, they will be admitted in to evidence. It is helpful to document injuries through both photography and medical testimony.

In initiating the investigation, determine all the facts from the reporting source. If the reporter is a medical professional, determine as closely as possible when the injury may have occurred. The significance of the time frame is obvious in that it can more closely assist in establishing who may have been present with the child when the injury occurred. The doctor may also be able to suggest how the injury may have or may not have occurred, particularly if fractures are involved. The doctor may be able to make the determination that injuries or repeated injuries are old or are in different stages of healing. Obtain background medical history to determine if there have been repeated injuries and/or lack of appropriate medical care (neglect may also be present). This may require additional inquiries to area hospitals or doctors.

If the reporting source is a relative, neighbor or friend, they may be essential witnesses, so explore all details about which they may be aware. Most often there are no eyewitnesses, and evidence is primarily circumstantial. Relatives, neighbors, and friends are often excellent sources of information if approached properly.

Do not overlook the possibility of obtaining information from even a very young child. Children who are two or three years old may not qualify as witnesses in court but may provide direction in the investigation, and a person who has obtained information directly from the child immediately after the offense may be an excellent corroborating witness. (See Interviewing the Child)

Visit the scene of the injury at the earliest possible time, preferably before it has been disturbed. The injury may involve a claim of a fall from the crib, highchair, sofa, stairs, etc., so measurements, photographs, descriptions, and diagrams are appropriate. Collect and preserve physical evidence, such as instruments used to inflict injuries, broken furniture, clothing, etc.

Evidence of a laboratory nature should be obtained when available. If the officer uses the approach that the investigation is merely routine, many permission difficulties in obtaining crime scene evidence will be overcome.

Talk to the non-offending parent, preferably without the suspect present. If this is done before the parents have an opportunity to compare their accounts, this can be more enlightening. If the non-offending parent is a witness, obtain a written statement immediately because he/she may later change his/her story in an attempt to protect the suspect. It is important to have all available facts about the injury at this time to overcome denial, indecision or apathy. It may be encouraging to emphasize the possible future danger to the child or other children.

In questioning a possible suspect, allow the suspect to describe the circumstances of the injury without pressure. Interrogation can follow as further background information is collected. If the suspect is initially very defensive, it may be effective to point out that the officer's position is simply to routinely determine the cause of injuries. Again written and recorded statements may be indicated, and delay may prevent obtaining these in the future. The earlier you talk to the suspect, the more likely the suspect is to make incriminating and contradictory statements. If the child is present during this time, observe the attitude of the parents toward the child, the child's response, and their inter-relationship. The battered child, for example, may be eager to please the abusive parents, and you may observe the child picking up things for the parent and otherwise performing to gain acceptance. The relevance of this can be seen in the earlier descriptions of battering parents. Several courts, including the Minnesota Supreme Court (State vs. Daniel Loss) and the South Dakota Supreme Court (State vs. Barbara and Daniel Best) have admitted the "Battered Child Syndrome" in to evidence as this compares to the defendant. The court's recognition of the Battered Child Syndrome may allow more social history in to evidence than in

other cases. Police should be careful to obtain all evidence, whether it appears admissible or not, because of the variance in admissibility on these cases and because the information may later be useful to social agencies or in Juvenile Court to assure the protection of the child.

In addition to witnesses, the officer should interview anyone who may have gotten a different explanation from the parent concerning the injuries. Inconsistencies have been noted from paramedics, emergency room personnel, physicians, social workers, neighbors, and relatives. An advantage in these cases is that social workers are often available to provide corroborating or rebuttal testimony, and they are not bound by the extensive rules of admissibility as are police officers. Social workers also can be of assistance in supporting and reassuring witnesses, especially during the time lapse before trial. Canvass the neighborhoods, not only the presently occupied area, but other areas in which the family resided. There may be witnesses in the area just as in other cases of murder and assault, but additionally, even if they have no knowledge about the present offense, they may be able to establish a previous similar pattern of conduct by the suspect. These may also include mailmen, milkmen, garbage men, etc.

Contact school authorities if the victim or other children in the family are of school age. School authorities are also in a good position to monitor the child's care if the child remains or returns to the home. The school provides an opportunity to interview children without parental interference. Since the child is not being seen as a suspect, obtaining parental permission to do so is inappropriate.

Contact law enforcement agencies, Welfare departments, and any other agencies in the areas where the family has resided. Frequently this is beneficial and may reveal a progression of abuse. Many of these families move frequently and seek out multiple sources for assistance so that an on-going history is not accumulated.

If procedures set by various agencies with whom you must deal, such as hospitals or schools, are found to be a hurdle, encourage meetings to develop changes in policy.

Keep informed of current scientific reporting and research, especially regarding causation of injuries, which is useful in identifying and prosecuting these cases.

Remain open-minded during the investigations, do not jump to conclusions, and remember always that our job is to seek the truth. Control your emotions, and do not over-react nor respond before you are well prepared.

2. The Child Abuse Team is a multi-disciplined approach to the identification, assessment and treatment of child abuse. Agencies involved include the police, MHC, SPRH, RCWD, RCNS, CA, etc.
3. The unique aspects of incest and sexual abuse within the family will be described.
4. The patrol investigation of incest will be detailed.
 - a) Such cases most often involve the need to place the child outside the child's own home. Procedures and forms will be explained.
 - b) The mother of the incest victim should be considered highly unreliable. All possible evidence from her, including statements, should be obtained immediately by the officer at the scene.
 - c) For other patrol procedures, see Lesson Plan on Sexual Assault.
5. Techniques in interviewing the physically and sexually abused child will be high-lighted.
6. The film, "A Call for Help" and subsequent training on patrol procedures for Sudden Infant Deaths will be given to complement material to be presented in other training on Homicide & Death Investigation.

- ✓ 8. Under which circumstances could a child be taken in to protective custody?
 - a) a child informs you that her father has raped her.
 - b) You find four small children with their mother in a filthy house where garbage and trash are throughout.
 - c) A young child tells you he is hungry, and his mother says she has no money to buy food.
 - d) All of the above.

- 9. The cause of Sudden Infant Death is:
 - a) heart failure.
 - b) respiratory infection.
 - c) pneumonia.
 - d) suffocation.
 - e) unknown.

- 10. The present documented leading cause of death in infants between the ages of two weeks and one year is:
 - a) child abuse.
 - b) birth defects.
 - c) Sudden Infant Death.
 - d) heart ailments.

Carolyn Bailey

Criterion Test

(Child Abuse)

- ✓ 1. Child abuse as defined in the class is:
 - a) not watching your kids.
 - b) a child who is badly hurt.
 - c) inflicted injuries by parents or guardians.
 - d) a neighbor's child hitting your child with a shovel.
 - e) all of the above.

2. According to the Minnesota detention law (statute # 260.165), the persons who can take a child in to immediate protective custody without a court order are:
 - a) doctors
 - b) police officers
 - c) ministers
 - d) all of the above.

3. The only professionals involved that are not required by law to report child abuse are:
 - a) doctors
 - b) Police officers
 - c) ministers
 - d) none of the above

4. If a physician refuses to provide you with information regarding incest between a father and his ten year old daughter, you:
 - a) accept this because a physician is priveleged not to release information about a patient.
 - b) arrest him.
 - c) explain that the law requires he report all such suspected cases.
 - d) look at his files anyway.

- ✓ 5. Which is NOT a general characteristic of parents who physically abuse their children:
 - a) They expect too much from their children
 - b) The parents were abused themselves as children by their own parents.
 - c) They don't want their kids.
 - d) They have strict discipline of their children.

6. The mother of an incest child is:
 - a) stupid.
 - b) also a victim of incest herself.
 - c) to be considered highly unreliable.
 - d) very helpful to the incest victim.

7. Which type of injuries is most likely to be child abuse?
 - a) bumps on the forehead.
 - b) leg fractures in infants.
 - c) burns on the hands.
 - d) diaper rash.

(see next page)

INVESTIGATION OF CHILD ABUSE

1. Determine all the facts in the incident.
Is it deliberately inflicted injury? Consider:
 - a) The time interval between the occurrence of the injury and the time the parents seek necessary medical help. Example. Don't let this deceive you, however, because many parents after they have severely beaten their children, are terrified, panicky, and their first thought is to get medical help. *Check all reporting sources for conflicting history.*
 - b) Document the injuries. Observe the physical condition of the child, and record it. Obtain photographs of injuries where possible (most significant evidence). Obtain complete medical information, including the physicians estimate on the time and cause of injury, before any intensive questioning of parents. Time is especially significant in child abuse cases because it allows you to determine who may have been with the child during the time of injury (time provided by parent is often vague). Obtain the medical history.

2. Collection and Preservation of evidence:
 Visit the scene of the injury at the earliest possible time (often involve the claim of a fall from the crib, high chair, etc.). Look it over carefully and determine probabilities. There may be evidence of other neglect (Example: children not sleeping in beds). Evidence which is inadmissible in criminal court may be admissible in Juvenile Court. Measurements and photos can be taken before the scene is disturbed (if there is no emergency, such as in a death). It may be wise on initial contact not to interrogate the parents but allow them to describe the incident freely. "Routine" investigation eliminates many permission difficulties. If a weapon is involved, obtain this (example: hanger). Canvass the neighborhood. This may also include a former neighborhood, school, etc. Police laboratory evidence may be helpful (blood, fingernail scrapings, etc.). Record checks on all family members from all sources should be obtained.

3. Establish identity of person responsible. This may be known through above. Include proper questioning of the parents. If a child is present, consider the attitude of the parents toward him and the child's response. There may be obvious rejection, blame (unwanted pregnancy). The battered child is frequently eager to please (ex. 2 yr. old in hospital). Keep in mind the significant information re. "battered child syndrome" during investigation and questioning: (careful)
 - a). Many abusers were beaten as children.
 - b). Abusing parents often have high expectations, are discipline oriented. Ask about discipline; what do you do when..?
 - c) Abusing parents may complain agitatingly of difficulties with the child (esp. crying bugs them).
 - d). Where's the husband and wife?
 - e). Did a crisis exist at the time of injury?Focus on the parent when questioning them. They frequently have no concept of the child's needs. Obtain a detailed chronological account of the incident.

4. Immediate protection of the child. Particularly demanding in child abuse because we have the responsibility to protect while investigating or servicing.

5. Juvenile Court.
6. Adult Prosecution
7. Team Process.

During the investigation, we must overcome:

1. Preconceived notions.
2. Personal feelings and attitudes (shock and disgust). Resist temptation to tell them to "shape up".
3. Temptation to accept parents' deception (ex. one time incident).

Look over the whole picture, review all the facts, then as objectively as possible, utilize your own experiences to determine probability (ex. my three sons never got hurt while sleeping in crib during the night. It is easy to get involved with the parents, so remind self not to so intensely study detail while the whole picture looks ridiculous (ex. 3 mo. foster child with multiple fractures).